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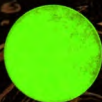
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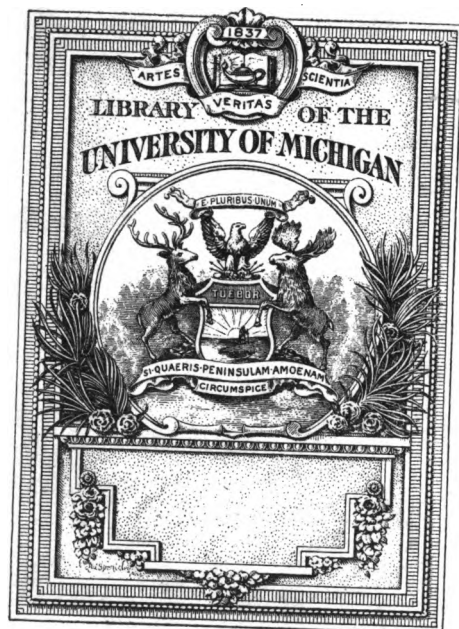
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**STUDIES IN  
MICHIGAN HISTORY.**

**PUBLICATIONS**

**OF THE**

**MICHIGAN POLITICAL SCIENCE  
ASSOCIATION.**

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**VOL. II. NO. 2.**

**MAY, 1896.**

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**CONTENTS:**

**THE SOUTHERN AND WESTERN  
BOUNDARIES OF MICHIGAN,**

**BY**

**ANNAH MAY SOULE, M. L.**

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**PRICE, 75 CENTS.**



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*From the anchor*

*May 20, 1896*

5-83-64

**The Southern and Western  
Boundaries of Michigan,**

**BY**

**ANNAH MAY SOULE, M. L.**



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## STUDIES IN MICHIGAN HISTORY.

The Association hopes to publish under this title a few papers that are the result of careful investigation of some phases of the history of the State. The monograph following is the outcome of studies at the University of Michigan. The subject has been examined with great care, and original material and contemporary documents have been sought out with patience. The references to the material used are given with unusual fullness, because this boundary question has been often written about, but at no time after such thorough examination and such a complete reference to authority that one could feel that the basis of judgment was fully given. Miss Soule has cherished the ambition of presenting with clearness an outline of the whole subject, and of making clear the material used and the data upon which statements and opinions rest.

The boundary controversy between Ohio and Michigan is a subject of more than mere local interest and curiosity. It exhibits in a peculiarly instructive way the sentiment of States-Rights, which was dominant in the fourth decade of the century, at a period when the forces of nationalization, too, were working among the people and assuring the indestructibility of the Union composed of indestructible states. Only by a study of such concrete examples, as this can one understand the source and force the State-Rights feeling. One sees that the people of each commonwealth were strongly impressed with a sense of the identity and individuality of the State, and that this prevailing sentiment has preserved the States as dignified portions of our political system and kept them from sinking into mere administrative districts or becoming mere political divisions of the Nation for the purposes of insignificant local government. From this point of view the irritable, militant spirit of Michigan challenges attention, if not respect, and is not without an evident historical lesson.

ANDREW C. McLAUGHLIN.

ANN ARBOR, MICH., May 5, 1896.





## PART I.

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### THE SOUTHERN BOUNDARY.

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Few States of our Union have so interesting a boundary history as has Michigan. The flags of three nations have floated over this region, and the governors of five States and three Territories have claimed the right to exercise jurisdiction therein. The northern and eastern boundary lines were not definitely determined until after Michigan was a State. The southern line was contested for thirty years and was established only after civil war was threatened. The western boundary too was contested, and with as much persistency if not as much force as was the southern line.

The French were the first Europeans to discover the Great Lakes of North America, and until 1763  
1763 they held the country bordering upon those inland seas. After the seven years' war England fell heir to this rich country and held it for twenty years. In 1783 the United States obtained  
1783 the title to the country by the terms of the treaty of Paris, but for some years the region did not pass into the hands of the general government. Even before it was definitely known that the lands north and west of the Ohio would be given to the United States as the fair earnings of the Revolutionary War, a number of the eastern States set up claims to large portions of the region.\* Massachusetts and Connecticut based their

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\* Journal of Congress, September 6, 1789.

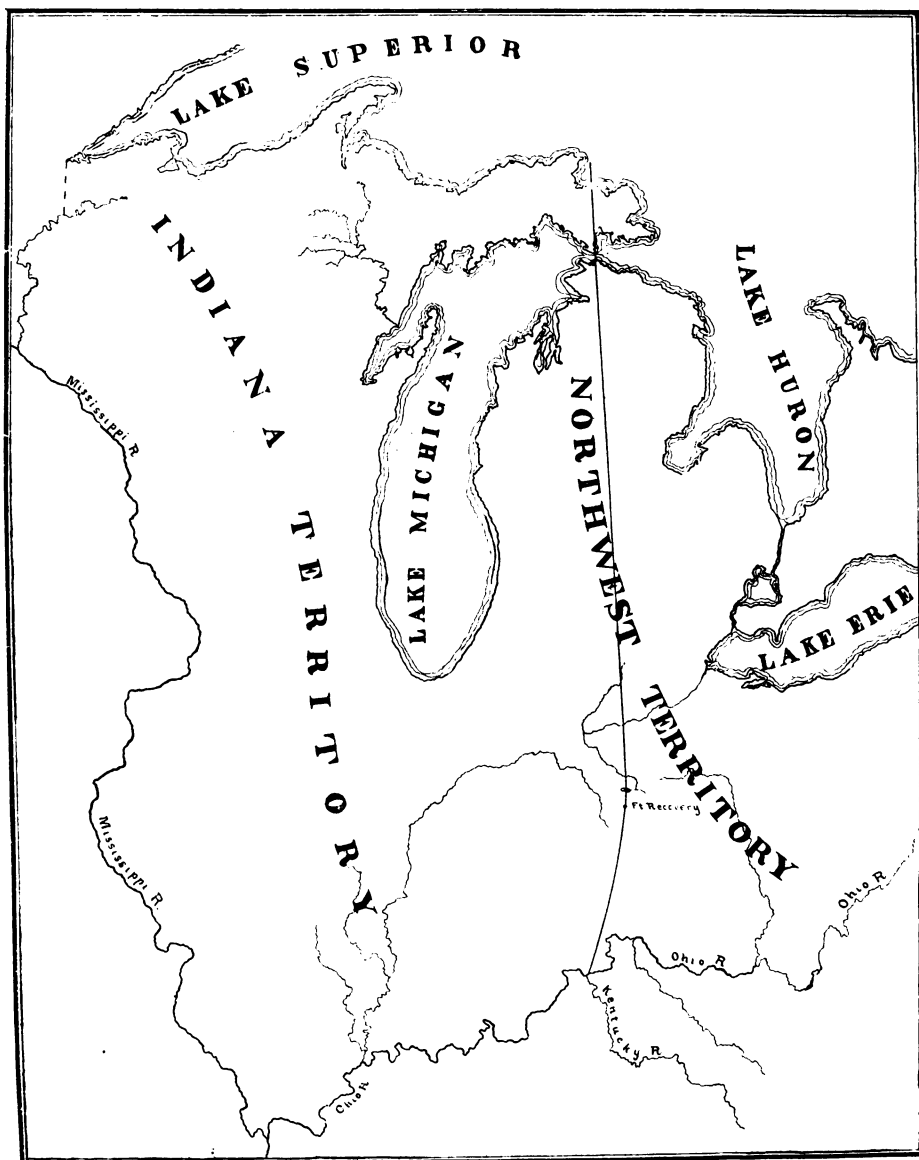
assertions of ownership on the old "sea to sea" charters. Virginia said that, by the provisions of her charter, her domain ran up into the land "west and northwest." New York presented a vague and shadowy title built on a grant from the Iroquois Indians. But no trouble arose from these conflicting claims. Yielding to the pressure of public opinion and to their own impulses of nationalism, these claimant States gave up their western lands to the Government of the Confederation.\*

Hardly was the Central Government in full possession of the first Public Domain than arrangements were made for its government. In 1787 all the country lying east of the Mississippi and north of the Ohio river was organized as the Northwest Territory. The famous ordinance by which this Territory was established provided for its division,† and in 1800 two Territories were carved out of the one. Indiana Territory included all the country west of a line running from the mouth of the Kentucky river to Fort Recovery and thence due north; while the country east of that line was to retain the name of the Northwest Territory.‡ By this arrangement the Michigan country was divided, one part being included with Indiana, the other in the Northwest Territory. But the division of an isolated peninsula created no surprise or question. The inhabitants of the western part were few and they, like those of the eastern part, knew more of their southern neighbors than of those who dwelt in the lower peninsula. The eastern portion was organized as Wayne County of the North-

\* Donaldson, "The Public Domain, Its History and Statistics," Vol. I, p. 65-75.

† Ordinance of 1787, Article V.

‡ Statutes at Large, Vol. II, p. 58. Annals of Congress, VIth Congress, p. 1,320. St. Clair Papers, Vol. I, p. 215. Vol. II, p. 325.



1800.





1802 west Territory,\* and the inhabitants were most indignant when the State of Ohio was organized and they were not a part of it. They protested that it was illegal to exclude that county from the new State. The Ordinance of 1787, they said, forbade a further division of the Northwest Territory until the northern part could become a State, and to exclude the county from Ohio would ruin it.† But these protests were all in vain, because of political conditions, it was said at the time and with apparent reason. Wayne county was federal in its principles, the Republicans had just secured the presidency. Would they wish the creation of a State which might belong to their opponents if it was to include Wayne county? To win a republican State, Governor St. Clair said the people of Wayne county were "bartered away like sheep in a market."‡ So early did Michigan people complain that party need worked them injustice.

The act enabling the people of Ohio to form a State provided that Wayne county might be attached to the new State§ if Congress saw fit. Fortunately Congress decided to attach it to Indiana Territory, and

1803 in 1803 Governor Harrison created a new Wayne county, which included almost all of what is now Michigan. || The Peninsula thus united was too strong to remain long a part of a Territory. After two years the Wayne county of Indiana

\* Statutes of Ohio, Chase, Vol. III, p. 2,006.

† St. Clair Papers, Vol. I, pp. 228-229; II, 543-550. Burnet, "Notes on the Early Settlement of the Northwest Territory," pp. 337-494.

‡ St. Clair Papers, Vol. I, pp. 229-233. Vol. II, pp. 557, 559, 560, 570, 576, 586, 588, 590, 594. Burnet's "Notes," p. 336 *et seq.* Chase, "A Sketch of the History of Ohio," p. 23.

§ Ohio Enabling Act. Statutes at Large, Vol. II, p. 174.

|| Proclamation of Harrison, in Michigan Pioneer Collection, Vol. VIII, p. 541.

1805 became the Territory of Michigan,\* in spite of the objections of the Indiana people,† and TERRITORY in spite of the fact that the people of Ohio objected to its southern boundary.‡

The boundaries of this new Territory were the international line between the United States and BOUNDARIES Canada on the north and east; on the west a line running through the center of Lake Michigan and thence due north to the international line; on the south a line "drawn east from the southerly *bend* or *extreme* of Lake Michigan until it intersects Lake Erie."|| This southern line is the one to which Ohio objected, and for which in after years the chivalry and patriotism of Michigan prepared to shed its blood. To know why it is not now the southern boundary of Michigan we must read the annals of Congress for thirty years and more. The line which separates the States of Michigan and Ohio has a history, a history colored by the political and industrial movements of the first half of this century.

The enabling act, under which the State of Ohio was formed, prescribed for the northern boundary of the prospective State a line running OHIO due east and west "through to the southerly extreme of Lake Michigan".|| The Ordinance of 1787 seemed to describe this as the dividing line between the northern and southern tier of States, provided Congress should decide to create five States out

† Statutes at Large, Vol. II, p. 309.

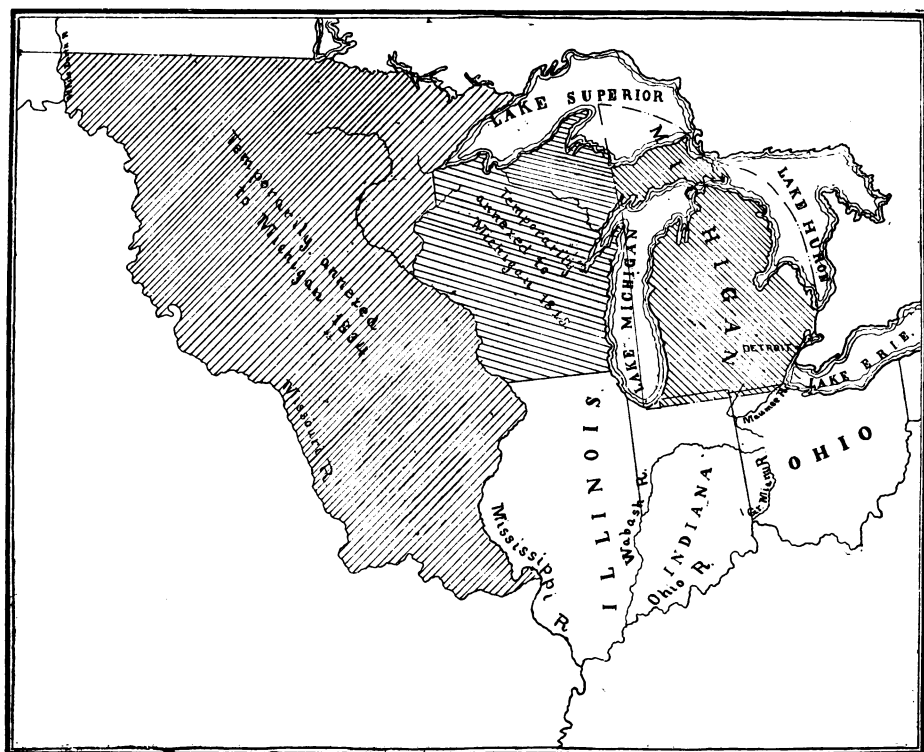
‡ House Journal 1804-7, p. 207. Annals of Congress, IXth Congress, 1st Session, pp. 294, 297.

§ Senate Documents, No. 354, XXIIIrd Congress, 1st Session, Vol. IV, p. 19. Cong. Debates, Vol. X, pt. II, pp. 1901-1904.

|| Statutes at Large, Vol. II, p. 309.

\* Statutes at Large, Vol. II, p. 173.





Territory over which the jurisdiction of Michigan has extended 1805, 1816, 1834.



of the Northwest Territory,\* and there was then no question of the fitness of the line. But while the Ohio convention was framing the Constitution for the new State an old hunter appeared on the scene, and learning of the prescribed boundaries, informed the State-makers that the southern extreme of Lake Michigan lay much farther south than they supposed or the maps indicated.† The convention therefore embodied in the constitution the boundaries prescribed in the enabling act, with the proviso: "If the southerly bend or extreme of Lake Michigan should extend so far south that a line drawn due east from it should not intersect Lake Erie or if it should intersect the said Lake Erie, east of the mouth of the Miami river of the lakes, then . . . . . with the assent of Congress of the United States, the northern boundary of this State shall be established by, and extended to, a direct line running from the southern extremity of Lake Michigan to the most northerly cape of the Miami bay," thence northeast to the territorial line and along that to the Pennsylvania line.‡ Unfortunately the Congressional committee on the admission of Ohio refused to consider the proviso, because: 1st, It depended on a fact not yet ascertained. 2nd, It was not submitted as were other propositions of the Constitutional convention.§ This decision of the committee was accepted by Congress and Ohio was admitted without the assent to or a rejection of the boundary proviso.

This neglect or refusal, whichever it may be termed, to consider their wishes regarding the boundary was un-

\* Ordinance of 1787, Art. 5.

† J. Burnet to J. Delafield in "Historical Transactions of Ohio," Vol. 1, 77, 116. Map in Senate Documents, No. 211, XXIVth Congress, 1st Session, pp. 13, 14. Burnet's "Notes," p. 361.

‡ Constitution of Ohio, Article 7, Section 6.

§ Senate Documents, No. 364, XXIIIrd Congress, 1st Session Vol. IV, pp. 13-15, 16-18.

satisfactory to the people most concerned. So, no sooner were the Ohio congressmen seated, than they began working to secure formal congressional assent to the boundary proviso. Senator Worthington secured the chairmanship of a committee to consider the question, but to no purpose, for neither House could be persuaded

to consider a question so unimportant as the  
 1805 boundary of so distant a State.\* When the Territory of Michigan was organized, effort was again made to have the neglected proviso confirmed,† but it failed and the southern line of the Territory was, as we have seen, described precisely as Ohio did not wish.‡ Accordingly the three following Assemblies of Ohio instructed their Congressmen to endeavor to secure the passage of a law defining the northern boundary line of their State.§ The last appeal was most urgent. The lands near the Rapids of the Miami had recently been ceded to the government by the Indians, and settlers were moving into the country. The governor of Michigan appointed magistrates to exercise authority within the district, while the President had appointed a collector to reside at the Rapids, describing the place as in Ohio.¶ Surely it was time to say whether the region lay in Ohio or was a part of the Territory of Michigan.

Congress therefore answered this appeal, though not in the way hoped for by the petitioners.

1812 Representative Morrow of Ohio proposed a bill confirming the northern line proposed in the Constitution of his State, and was made chairman of

‡ Ibid, p. 15.

§ Cong. Debates, Vol. X, pt. II, pp. 1901, 1904.

\* Above page 4.

† Acts of Ohio 1807, 1809, 1811.

the committee to consider the question.\* But the bill which passed provided for surveying the boundary as established by the enabling act of 1802.† The cause of the failure to abide by the desire of Ohio in this matter is not easy to explain since reports of the debates are not given. Certainly Michigan's influence was not equal to that of the rival State and there remain but two other possible explanations: 1st, It seemed unnecessary as well as unwise to change the description of a line running through a country the geography of which was so little known. 2nd, The line defined was considered inviolable since it was prescribed by the Ordinance of 1787 as the one which should divide the northern and southern States to be formed in the Northwest Territory.

In 1812, as has just been said, Congress passed an act providing for the survey of the northern boundary of Ohio as described in the enabling act of 1802. Had the act been carried out at once, the question might have been settled then, but owing to the hostility of the Indians and an absorbing conflict with Great Britain, the

1815 survey was not undertaken for three years and then but little was accomplished.‡

Meanwhile the tide of immigration was settling in the Miami § region and the question of jurisdiction was becoming more and more important.¶ Again the Ohio authorities urged the survey of the State line.¶ The President complied with the request and directed the fulfill-

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\* House Journal, XIIth Congress, p. 100.

† Statutes at Large, Vol. II, p. 741.

‡ Reports of Committees, No. 380, XXIVth Congress, 1st Session, Vol. II, p. 67, Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 108, 109, 118.

§ H. S. Knapp, "History of Maumee Valley," pp. 536, 617.

¶ Niles Weekly Register, Vol. IV, pp. 315-316. Reports of Committees, No. 360, 21st Session, XXIVth Congress, Vol. II, p. 68.

¶ Ibid.

ment of the act of 1812.\* The Surveyor General of Ohio, who had the work in charge, directed a Mr. Harris to run the line, but according to the proviso of the Ohio constitution, not in accordance with the act of 1812.† Mr. Harris had scarcely completed his work when General Cass, then Governor of the Territory of Michigan, wrote to the Surveyor General of Ohio, stating that report had come to the effect that the line recently run, purporting to be the line between the "State of Ohio and this Territory" was not run in a due east course from the southern extremity of Lake Michigan, but further north. He asked by whose instructions this line was run, when run, and what were the returns of the surveyors, adding "This subject is important to the people of this territory and to the people living upon the Miami. A disputed jurisdiction is one of the greatest evils which can happen to a country. The sooner, therefore, this business is investigated the better."‡ To this letter General Tiffin returned answer that Harris had found the southern extreme of Lake Michigan to be seven miles and more south of the most northern cape of Miami Bay, and had surveyed a line between the two points. He also sent a map marked to show the line as surveyed by Harris and one as prescribed by the enabling act, adding "Let the proper authority say which shall govern." At the same time he expressed his own belief that the Harris line was the true one because Congress had accepted

1817 the Constitution of Ohio with the proviso that such a line should be the boundary, if Lake

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\* *Ibid.*, p. 68. Senate Documents, No. 6, XXIVth Congress, 1st Session, p. 109.

† Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, p. 110. Congressional Globe, XXIVth Congress, 1st Session, Vol. II, p. 164.

‡ Letter published by the Michigan Convention in 1835, in "An Appeal to the People of the United States."

§ Published in "Appeal to the People of the United States," 1835. Ohio papers published with the Message of Governor Lucas, 1835.





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Michigan extended so far south as it was now known to do. §

Word of this correspondence coming to the Governor of Ohio he sent to the next assembly a message urging the importance of an early settlement of such an important question. So far as they could do it, the legislators settled the question by passing a resolution to the effect, that the Congress of the United States had accepted the proviso in accepting the Constitution of Ohio, and therefore the northern boundary line of the State was a line running from the most northerly cape of Miami Bay to the southern extremity of Lake Michigan. † The Ohio Assembly, however, was not the only body to consider the question. The Governor and Judges of

1818 the opposing Territory sent a memorial to Congress stating that the line recently run by Harris was not the one ordered marked, but another running from five to seven miles farther north.\* Not satisfied with sending a memorial, they also sent a Committee to Washington to press the claims of the Territory. † This opposition of Michigan was so far successful, that, a committee of the House deciding he had the right so to do, the President directed the marking of the northern boundary of Ohio "according to the provisions of the Act of May 20, 1812." ‡ Mr. Harris declined to do the

1820 work; so one Fulton was commissioned. §

† Papers published with the Message of Lucas, 1835. Early Michigan History, Vol. I. The only copies I have been able to find of this and some other Ohio Acts are in the State Library at Lansing. They are catalogued under the head of "Early Michigan History. Pamphlets."

\* Archives State Department, Lansing. Published in "Appeal to the People of the United States," 1835.

† Michigan Pioneer Collection, Vol. XII, p. 639.

‡ Reports to Committees from Land Office, published in "Appeal to the People of the United States," 1835.

§ Ibid. Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. 1, pp. 111, 115.



Two years later, President Monroe notified Congress that the northern boundary of Ohio had been marked according to the law of 1812.\* The Ohio members asked to have it re-marked according to Harris's survey.† The House refused; but left the question of the boundary unsettled by also refusing to declare the line just marked by Fulton to be the true boundary.‡ Ohioans complained that the Fulton line was not run by order of Congress, but at the request of General Cass;§ but their complaints were unnoticed and the question was not again considered by Congress for five years.

While Ohio and Michigan were discussing the Harris line, Indiana was admitted with a northern boundary line running east and west through 1816 a point "ten miles north of the southern extreme of Lake Michigan."¶ This cut off from Michigan Territory a strip ten miles wide and one hundred miles long; but the act passed unchallenged, doubtless because Michigan had no delegate in Congress, and there was no one else to question or even observe that this was a regrantee of territory.¶ Once known to the world, however, the act was challenged. When 1818 the Governor and Judges of Michigan protested against Ohio's claim to a strip of land,\*\* they also protested against the right of Congress to give Indiana a strip lying farther west. They knew it was too late to change the boundary of the new State

\* House Journal, XVth Congress, 1st Session, p. 292.

† Ibid, pp. 239, 287, 382, 436, Senate Documents, No. 149, XXIIIrd Congress, 1st Session, Vol. III, p. 14.

‡ House Journal, XVth Congress, 1st Session, pp. 449, 452.

§ "Early Michigan History, Pamphlets" I, State Library at Lansing.

¶ Statutes at Large, Vol. III, p. 289. "State Papers," XIVth Congress, 2nd Session, No. 3.

¶ Senate Documents, No. 354, XXIIIrd Congress, 1st Session, Vol. IV, p. 21, Annals of Congress, Vol. XXX, p. 254.

\*\* Above page 9.

but they took that way, they said, to preserve "the just rights of the people of this territory.....that it may not hereafter be supposed they have acquiesced in the changes which have been made." The final discussion they left to the future "when the people of the country can be heard by their own representatives."\* This was the beginning and would have been the end of the quarrel with Indiana, had not the difficulty between Michigan and Ohio forced each party to stand for its own rights. The strip given to Indiana in 1816 had never been included in organized Michigan.† The region was sparsely settled and little known by Michigan people, and when the line was run no opposition whatever was made, though Michigan was then represented by a delegate in Congress.‡

With Ohio it was different. The contested strip lay in a most fertile region and near the center of population in Michigan. Naturally the question of possession must continually arise. While a congressional committee was deciding that the northern boundary should be remarked because the Harris line was not made according to law,§ the Ohio Assembly declared the Harris line to be the northern boundary of that State, and prepared to extend their jurisdiction to it.|| The story goes that officers appointed by the rival governments met and agreed upon a division of their powers within the disputed tract.¶

\* Memorial of Governor and Judges, Archives State Department, Lansing, also published in "Appeal to the People of the United States."

† Journal of Michigan Legislative Council, 1831, p. 7, Senate Documents No. 354, XXIIIrd Congress, 1st Session, Vol. IV, p. 31.

‡ Senate Journal, XIXth Congress, 2nd Session, p. 79. House Journal, XIXth Congress, 2nd Session, pp. 355, 379. Senate Documents, No. 5, XXth Congress, 1st Session, Vol. IX. See map in "State Papers," No. 187, XXth Congress, 1st Session, Vol. V.

§ Above page 9.

|| Above page 9.

¶ W. W. Way, "The Toledo War," p. 19.

However that may be, those higher in authority were not inclined to compromise matters. When word reached the Territory that the Ohio Assembly had officially declared the Harris line to be the northern boundary of the State, Governor Cass was absent; but Secretary Woodbridge lost no time before writing to the Governor of Ohio assuring him that the act was unconstitutional.\* Believing that plenary power rested only with the general government, he wrote also to John Quincy Adams, then Secretary of State, stating that he had been "advised by the magistrates and others living on and near this contested tract of country that serious difficulties are threatened them from the apparent determination of the constituted authorities of Ohio to enforce their claims." He begs that Michigan be protected against Ohio, which he says, "has swollen to the dimensions of a giant" and says, that, inasmuch as Michigan is a frontier State it should be strong to protect the Union against "countless hordes of savages in the Northwest" and the rapidly increasing power of Canada.† The spirit of 1835-6 is shown in the Secretary's letter, when he says he "could not feel justified in resisting the calls of that people" (those of the disputed tract) "for some official interference in their behalf. I have exhorted them to avoid every measure which should lead to a breach of the peace, but at the same time, in no instance to admit, directly or indirectly, the validity of the claims of Ohio."‡

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\* Senate Documents, No. 354, XXIIIrd Congress, 1st Session, Vol. IV, pp. 34-37. Senate Documents, No. 235, XXIIrd Congress, 1st Session, Vol. III, pp. 5-9. Journal of Michigan Legislative Council, 1831, pp. 13-15.

† Journal of Michigan Legislative Council, 1831, p. 18. Senate Documents, No. 235, XXIIIrd Congress, 1st Session, Vol. III, pp. 9-10 No. 354, Vol. IV, pp. 37-39.

‡ Ibid.



For some reason this ended the dispute for that time. The Ohio authorities made no persistent effort to enforce their jurisdiction to the north, though they reiterated their right to do so,\* and Michigan authorities quietly exercised their jurisdiction. Local officers occasionally disputed each others authority, but the conflict caused no trouble.†

In 1825, *apropos* of the desire of the northern counties to be cut off from that Territory, ‡ the Legislative Council of Michigan asserted that Congress had no power to alter the boundaries prescribed in 1805, but made no specific mention of the Ohio difficulty.§ The

1826 following year, however, there was considerable excitement over the matter. The Ohio delegation in Congress secured the appointment of a committee to consider the expediency of marking the line dividing Ohio from Michigan Territory.¶ Similar proposals in other days had specified that the line should be according to the proviso of the Ohio constitution.¶ Were the Ohio people willing to yield their claim or had they only grown wary? The answer cannot be given, as the proposal was not considered.\*\* But Michigan was on the alert. The very next Council voted to instruct the delegate in Congress to prevent any change of the Territorial boundary, and again announced that the people of the Territory had "acquired absolute vested rights" by the Ordinance of 1787 and the act of 1805.††

\* Journal of Michigan Legislative Council, 1831, p. 21, Senate Documents, No. 364, XXIIIrd Congress, 1st Session. Vol. IV, p. 39.

† Knapp, "History of Maumee Valley," p. 243. (This fact is substantiated by Ex-Governor Felch, of Ann Arbor. He lived in the disputed region, and as an officer had some experience of a disputed jurisdiction.)

‡ Below pages.

§ Journal of Michigan Legislative Council, 1824-5, p. 25.

¶ House Journal, XIXth Congress, 1st Session, p. 305.

¶ Above pages 6-9.

\*\* House Journal, XIXth Congress, 1st Session, p. 305.

†† Journal of Michigan Legislative Council, 1826, pp. 64, 68.

A little later the council organized the Township of Port Lawrence in the very heart of the disputed country \* without causing any protest from the authorities of Ohio. For a time the contest was to be made in Congress.

The next session saw the question re-introduced there by a bill to ascertain the latitude of the southern extreme of Lake Michigan. "for the purpose of fixing the true northern boundary lines of the States of Ohio, Indiana and Illinois."† Early in the previous year a bill providing for a marking of the northern boundary of Indiana had been passed without difficulty,‡ but this measure failed to receive attention at this or the following session.§

But by 1831, the boundary question began to assume a serious aspect. The Ohio assembly petitioned Congress for the "speedy and permanent establishment" of the dividing line between that State and the Territory of Michigan.¶ Governor Cass greeted the Legislative Council of the Territory with a message which showed his anxiety. He referred briefly to the attempt of the northern counties of the Territory to secure separation,¶ and to the possession by Indiana of a portion of the Territory. He advised against urging any claim to the latter, since Indiana was in possession and it was best to leave the tract unclaimed, until Michigan too should be a member of the tribunal which

\* Territorial Laws of Michigan, Vol. II, p. 478.

† Senate Journal, No. 478, XXth Congress, 1st Session, pp. 350. Senate Documents, No. 149, XXIIIrd Congress, 1st Session, Vol. III, p. 14.

‡ Senate Journal, XIXth Congress, 2nd Session, p. 79. House Journal, XIXth Congress, 2nd Session, pp. 355, 379. Senate Documents, No. 5, XXth Congress, 1st Session, Statutes at Large, Vol. IV, p. 236.

§ House Journal, XXIst Congress, 1st Session, pp. 79, 227.

¶ Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. 1, pp. 9-10.

¶ Below page.

must decide the question.\* With regard to the Ohio difficulty, however, he advised sending to Congress a memorial which should state the rights and sentiments of the people of the Territory, and he quoted the letter written by Woodbridge ten years before as an able exposition of the case.†

Before referring the matter to Congress, the Legislative Council determined to endeavor to settle directly with Ohio. The Governor was authorized to negotiate with the Executive of Ohio on the basis of a session of all the territory in dispute situated east of the Maumee river, and the acceptance by Michigan, of an equivalent cession of territory west of the said stream.‡ The attempt was vain and so a memorial was sent to Congress.§ About the same time the Assembly of Ohio also memorialized Congress and for the first time fully outlined their claims.|| The result was the passage of an act providing for determining the latitude of the southern end of Lake Michigan and other points preparatory to an adjustment of the Ohio and Michigan boundary.¶

With the year 1833 began an uninterrupted contest over the boundary line; a contest which waxed  
 1833 warmer and warmer until the people of the  
 Ohio and those of Michigan faced each other  
 in battle array, and both defied the central government  
 as no State but South Carolina or Georgia had dared to do,

\* Journal of Michigan Legislative Council, 1831, p. 7.

† Journal of Michigan Legislative Council, 1831, pp. 7-8. It was most delicate of Cass to refer to this letter of Woodbridge, instead of to the document from which he doubtless largely drew. For Cass as Governor was one of those who drew up the document of 1818 in which was set forth all the arguments Michigan ever used to sustain her rights. Above page 10. Senate documents, No. 354, XXIIIrd Congress, 1st Session, Vol. IV, pp. 30-39.

‡ Journal of Michigan Legislative Council, 1831, pp. 137, 166.

§ Journal of Michigan Legislative Council, 1832, p. 109.

|| Below p. 57, *et seq.*

¶ Statutes at Large, Vol. IV, p. 596.

and as none, since 1865, will ever venture to do. Localism and the state rights idea were rampant in the thirties. Many people felt that those who dwelt in another State were "foreigners." The inalienable rights of a sovereign State were not to be questioned with impunity even by federal authorities. To give to the States of Ohio and Indiana a part of what had once been included in their territory was, Michigan people thought, to partition their country as Poland was partitioned among the European powers.\* Even the Whigs talked of a Territory as being in "a state of colonial dependence." The people of Michigan called upon their delegate in Congress to insist upon "our rights;" and urged Virginia and the other ceding States to insist, as grantors, upon the fulfillment of the contract made in 1787.†

On the eleventh of December, 1833, Lucius Lyon presented the first formal petition of Michigan for admission.‡ The Ohio memorial of the previous year §

was repeated || and the Michigan Legislative

1834 Council also sent one stating that "the

Territory of Michifian demands as the right of the *State* of Michigan" that the fundamental line through the southerly bend of Lake Michigan, and no other, should be the southern boundary.¶ Again were set forth the principles upon which such a demand was based. Both memorials were printed and carefully read, if we may judge by the debates of this and the following two years. Many in Congress, as well as out, felt that Michigan should be admitted, ~~and a will~~ and compromise

\* Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 77-78.

† Newspapers of the Day.

‡ House Journal, XXIIIrd Congress, 1st Session, p. 43.

§ Above.

|| Executive Documents, XXIIIrd Congress, 1st Session, Vol. IV, p. 1.

¶ Michigan Legislative Council, 1834, pp. 126, 131, 146. Senate Documents, No. 236, XXIIIrd Congress, 1st Session, Vol. III, p. 1. Senate Journal, XXIIIrd Congress, 1st Session, pp. 118, 157.

was attempted. Senator Tipton, of Indiana, <sup>having</sup> presented a request for the admission of Michigan,\* made the proposal, (as the Michigan Council had done earlier)† that Ohio should be given that portion of the disputed tract which lay east, and Michigan that which lay west, of the Maumee.‡ At the same time, Senator Preston proposed that Michigan be extended on the northwest and Ohio be given all she claimed in the south.§ Neither of these peaceful proposals pleased those most interested and the desired enabling act was not passed.|| When the Ohio boundary bill was introduced, the delegates from Michigan wished to refer it to the Judiciary Committee instead of to the Committee on the Territories. The Ohio members objected, but in vain. Michigan people had always claimed that the boundary trouble should be settled by the Judiciary and not by Congress; now the test was to be made. Michigan won the desired committee,\*\* but Ohio won the verdict. The committee reported a bill establishing the boundary as proposed in the Ohio constitution, and at the same time declared their belief that Congress had the authority to settle the question, it being one of expediency rather than law. When the question came up for discussion each side mustered all its forces and set forth all its arguments. The Governor of Michigan, at the request of his Council, besought Virginia to "require of the government of the United States a strict compliance with the act of cession and Ordinance of 1787."††

\* Senate Journal, XXIIIrd Congress, 1st Session, pp. 118, 157.

† Above page 18.

‡ Congress Debates, Vol. XII, pt. I, p. 1009.

§ See Part II.

|| Senate Journal, XXIIIrd Congress, 1st Session, pp. 157, 257. House Journal, XXIIIrd Congress, 1st Session, pp. 308, 308. Senate Documents, No. 364, XXIIIrd Congress, 1st Session, Vol. IV, p. 43.

\*\* Senate Documents, No. 364, XXIIIrd Congress, 1st Session, Vol. IV, pp. 3, 11, 39. Message of Governor Cass, to Michigan Legislative Council, 1831.

† Executive Document, No. 51, XXIIIrd Congress, 1st Session, Vol. II.

There is no evidence that this request was granted, but with all the forces arrayed against her, Michigan still had influence enough to prevent the passage of the Ohio boundary bill.\* The settlement of the northern boundary of Ohio and the admission of Michigan were inseparable questions because of conflicting territorial claims. Do what they would, legislators could not consider either question upon its own merits alone.† By all the weight of precedent and justice, Michigan should have been admitted into the Union; for her population exceeded the number required for representation.‡ But since Ohio claimed a strip of country included within the borders of the would be State,§ justice and right alone could not be considered. No one doubted the right of Michigan to be admitted; many did doubt the right of admission with the boundaries claimed, and still others felt that the admission of a State depended solely upon expediency. Expediency was against the admission of Michigan; for commercial and political forces were opposed to it.

When the second attempt to secure permission to form a State failed, Michigan people determined 1835 to go on without permission. In January 1835 the Legislative Council called a convention to meet the following May, to form "for themselves a constitution and State government," according to the provisions of the Ordinance of 1787. || A con-

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\* Niles Register, Vol. 48, p. 119, Senate Journal, XXIIIrd Congress, 1st Session, pp. 193, 290, 303. House Journal, XXIIIrd Congress, 1st Session, pp. 705, 729, 735, 746.

† Senate Journal, XXIIIrd Congress, 1st Session, pp. 157, 193, 257, 260, 303. Abridgement of Debates, Vol. XII. House Journal, XXIIIrd Congress, 1st Session, pp. 443, 500, 705, 729, 735, 746.

‡ Ordinance of 1787.

§ Niles Register, Vol. XLVIII, p. 119.

|| Journal of the Convention, p. 5.



vention accordingly assembled and after a two months session completed its work and adjourned.\*

Meanwhile Congress was again considering the establishment of the disputed line, regardless of the warning of the Territorial Council that such legislation was unconstitutional.† Again the Senate passed a bill according to the desire of Ohio, Indiana and Illinois. The measure again failed in the House,‡ thanks, perhaps, to the efforts of John Quincy Adams, who felt called upon once again to risk political preferment by defending what he thought the just cause of a defenceless Territory.§ By this time both Indiana and Illinois had turned against Michigan, because the continued assertion, that Congress had no right to disregard the fundamental provisions of the Ordinance of 1787, made it seem that their northern lines might be in danger,|| since both had been run regardless of the Ordinance.\*\*

No sooner did word come to the people of Michigan that the Senate had again passed a bill fixing the boundary according to the provisions of the Ohio constitution, than there were "rumors of war." The Legislative Council of the Territory memorialized Congress, protesting that they would submit the question to the Supreme Court, but, until a decision was reached, Michigan would resist, "let the attempt be made by whom it may, all efforts to rob her of her soil, and trample upon her rights."††

\* Journal of the Convention. p. 5.

† Executive Documents, No. 53, XXIII Congress, 2nd Session, Vol. II, p. 1.

‡ Senate Journal, XXIII Congress, 2nd Session, pp. 29, 36, 82. House Journal, XXIIIrd Congress, 2nd Session, pp. 179, 384. Congress Debates, Vol. XI, pt. I, pp. 110, 114. Vol. XII, p. 109. et seq.

§ Memoirs of John Quincy Adams, Vol. IX, pp. 214, 221, 222. Senate Journal, XXIIIrd Congress, 2nd Session, p. 72. Niles Register, Vol. XLVIII, p. 68.

|| Ibid. Senate Document, No. 68, XXIVth Congress, 1st Session, Vol. II, p. 1. Congressional Debates, Vol. XII, pt. I, pp. 37, 39, 1010. Lyon letters to A. E. Wing and C. K. Green, December 27, 1835.

\*\* Senate Document, No. 34, XXIIIrd Congress, 2nd Session.

†† Executive Documents, No. 183, XXIIIrd Congress, 2nd Session, Vol. V, p. 2,

This reference to robbery was the result of a recent act of the Ohio Assembly; for those most concerned had again undertaken to settle the difficulty themselves. Not only were the people of Michigan ready to make a State;

they were in favor of arbitrating their  
DEC. 1834 quarrels. The Governor was authorized to  
appoint a commission to negotiate with Ohio

and Indiana regarding their conflicting claims.\* The latter appears not to have noticed the proposal and the Governor of Ohio replied with a message to his Legislature stating that there was no dispute to be settled with the Territory, and, if there were, a Territorial government could have no authority in the matter. He

1835 advised further that, inasmuch as the northern tier of counties had been bounded on the north by "the State line," an act should be passed declaring "all counties bordering on the northern boundary of the State of Ohio, shall extend to and be bounded on the north by the line running from the southern extremity of Lake Michigan to the most northern cape of Maumee Bay;"† and that township organization and jurisdiction be extended accordingly. The advice was promptly accepted. The Assembly further resolved that as Congress had repeatedly refused to protect the rights of Ohio against the usurpation of the Territorial Government it ill became a "*million of freemen to humbly petition*" year after year for what belonged to them. An act was passed declaring the Harris line to be the northern boundary of the State. At the same time they

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\* Territorial Laws of Michigan, Vol. III, p. 1338.

† Message of Governor Lucas, Feb. 6, 1835. Published in "Appeal to the People of the United States," 1835. Reports of Committees, No. 380, XXIVth Congress, 1st Session, Vol. II, p. 81-84.

provided for a re-marking of the line and for extending their jurisdiction to it.\* .

These measures did not take the Territorial statesmen by surprise. Governor Lucas had sent a copy of his message to Acting-Governor Mason, and that ardent youth had immediately issued orders to Brigadier General Jos. W. Brown, of the Michigan militia, to prevent, peaceably if he could, any attempt of Ohio officials to extend their jurisdiction within the limits of Michigan.† Two weeks before the Ohio Assembly had voted to extend its jurisdiction over the disputed tract, the Council of Michigan had passed an act to "prevent the exercise of foreign jurisdiction within the limits of the Territory of Michigan."‡

Here was a most embarrassing state of affairs. A Territory being refused permission to do so was about to make a State government for itself. A State which was asking Congress to fix one of its boundaries had declared that boundary to be already fixed, and was preparing to exercise authority over the desired tract, while the opposing Territory declared that only the Federal authorities had power in the case, and was preparing to defend its claims against all comers. No wonder the powers stood aghast. Even President Jackson lost his usual confidence and knew not which side to take. Letter after letter asking advice and aid went to Washington from the youthful Mason, who was Acting-Governor of Michigan. The Legislative Assembly besought the President to prevent Ohio from acting in the matter until the dis-

\* Reports of Committees, No. 380, XXIVth Congress, 1st Session, Vol. II, pp. 84-7. Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, p. 17.

† Reports of Committees, No. 380, XXIVth Congress, 1st Session, Vol. II, pp. 88-90. Senate Documents, No. 6, XXIVth Congress, 1st Session. Vol. I, p. 22.

‡ Territorial Laws of Michigan, Vol. III, p. 1367. Senate Documents, No. 6 XXIVth Congress, 1st Session, Vol. I, p. 17.

pute could be settled by the Supreme Court or "any proper number of distinguished citizens."\*

The first of April was the time set by the Assembly for the extension of the rule of Ohio within the disputed region.† Michigan prepared to meet force with force.‡ Governor Lucas announced that his course would be "mild yet firm,"§ and that the "sovereign and independent state" would not be turned from its purpose nor would it appeal to the Federal authorities.|| Ohio dared the stripling Governor of Michigan to meet old Governor Lucas with his million of free men.¶ Just then the silence of the President was broken. He sent letters to the rival Governors announcing that the question had been referred to the Attorney General and that he hoped the contestants would exercise forbearance until a decision could be rendered by the Federal authorities. At the same time a peace commission was dispatched from Washington with instructions to mediate between the contestants.\*\* But the proud State and the ambitious Territory were in no mood to exercise forbearance. The Governors replied to the President that the laws of their respective legislatures must be enforced,†† and prepared to act accordingly.

On the second of April, Governor Lucas and staff, and those appointed to re-mark the Harris line accompanied

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\* Ibid, pp. 13-14, 25, 80-87, 137-140.

† Reports of Committees, No. 380, XXIVth Congress, 1st Session, Vol. II p. 87. Senate Document, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 25, 29, 137, 140.

‡ Message of Governor Lucas. Niles Register, Vol. XLVIII, pp. 229, 300.

§ Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I p. 21.

|| Niles Register, Vol. XLVIII, p. 303.

¶ Detroit Journal, February 4th, 1835.

\*\* Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 80, 81, 103, 104.

†† Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 28, 129.

by General Bell and his troops arrived at Perrysburg, a town just below the debatable ground. On April first Governor Mason left Detroit for Monroe, a town just north of the debatable ground, to which General Brown and a force of volunteers had already been dispatched.\* The elections passed off quietly.† The wonder was whether the Ohio officers elected would endeavor to exercise their duties and, if they did, what the Michigan authorities would do about it. The day after the election Mason wrote asking Governor Lucas to desist from enforcing the Ohio law until the President's mediators appeared.‡ The Governor refused to answer by letter, but told the bearers of the message that he had written the President about the matter, and doubtless his true statement of the case would induce the United States government to desist from any interference in the controversy. But if commissioners should be appointed, he said, they could have no authority or right to interfere, and it would be useless for them to try to mediate, as Ohio had determined on her course and it was his duty to carry out the laws of his State.

But already the mediators were at hand. Richard Rush and Benjamin C. Howard had travelled by night and day and on April third they arrived at Toledo,§ where, if anywhere, the contest must center. From there they visited the belligerent Governors. To Mason they stated that the President wished the subject left to be disposed of by Congress at its next session, or until the admission of Michigan should bring the question.

\* Detroit Journal, April 1, 1835. Documents accompanying message of Lucas, June 8, 1835. Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, p. 172.

† Niles Register, Vol. XLVIII, p. 166.

‡ Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 42-3.

§ Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, p. 48. Ibid, pp. 170-172.

"within the provisions of the Constitution of the United States." They were re-assured by the statement of Mason that he would exercise his duties with forbearance,\* and went to visit the Governor of Ohio. To him they said that the quiet way in which his State had been able to conduct the elections in the disputed region and to prepare to mark the line "witnessed the unobstructed assertion of his sovereignty and dignity," and that now Ohio could afford to pause until the proper authorities could adjust the matter. The Governor was much more conciliatory than might have been expected from one who had written to the Secretary of State that he was "at a loss to conjecture what could have induced the President to propose sending Commissioners to confer with Ohio." We have no controversy with Michigan," he said, and as for "extending our jurisdiction, I trust our civil authorities will settle that question."† Still he was determined; and the peace-makers had to hasten back to Mason and say, what they had hoped to avoid saying, that the President forbade the use of force to maintain the Act of February 12, until Congress should act upon the question. Whereupon, the doughty young Governor swore he would resign his commission rather than obey. And he quoted from the opinion of the Attorney General, which meanwhile had arrived, that a law of a Territorial Legislature was not null until so declared by Congress.‡

While these conferences were being held the crisis was coming nearer. The men elected under the Ohio act were beginning to assume office and civil processes

\* Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 170-171. Ibid. p. 172.

† Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, p. 140.

‡ Ibid., pp. 47-52, 176, 180-185.



against them were issued under the Michigan act. The Toledo people who had staked their all in that prospective city were in consternation. General Brown and his forces were ready to aid in executing processes against them if they took office,\* and yet if they were to make their fortunes they must be Ohio citizens. Urgently they implored Ohio authorities to protect them.† The boundary commission began work and, reaching Tecumseh was attacked by Michigan men. At least so Ohio people said, Michigan people said they were simply arrested.‡ The excitement was intense. Governor Lucas called an extra session of the Assembly in order to increase his army.§ Just then Rush and Howard endeavored to avert a civil war by proposing terms of conciliation. They proposed that: 1st, Ohio should be allowed to run the line, 2nd, people should submit to the legal processes instituted by either State, but the Executive should continue the case from term to term until the whole question could be settled by the Federal Judiciary.

Governor Lucas was willing to abide by this proposal,|| but his young opponent considered the terms "dishonorable and disreputable."¶ Mason had already expressed willingness to let the line be run,\*\* but the idea of concurrent jurisdiction was intolerable. In despair the peace commissioners turned their faces homeward,†† and left the contestants to do what they would. And this is what they did. The Ohio Assembly voted to

\* Ibid, pp. 185, 186.

† Ibid, pp. 190-192. Way, "Toledo War," p. 21, (letter.)

‡ Ibid, pp. 57-60, 145-146, 189-190. Letters from people on both sides are given in Way, pp. 12, 13.

§ Message of Lucas, June, 1836.

□ Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 167 8, 94.

¶ Ibid, p. 198-9.

\*\* Ibid, p. 196.

†† Ibid, pp. 199, 201, 202.

abide by the proposals of Rush and Howard, if the United States Government would compel Michigan to do the same. Fearing this would not be done they passed an act regarding kidnappers, and appropriated \$300,000 for the purpose of extending their jurisdiction up to the Harris line and for re-marking that line.\* And all this was done, they said, because the "great and powerful City of Detroit, aided by the authorities of the Senate," united to oppress and weaken the little village of Toledo. The honor of the State was pledged to protect its citizens who had been persecuted by Michigan, "with a degree of reckless vengeance rarely paralleled in the history of civilized nations."† While the Ohio Assembly was taking action to protect its citizens, the convention in Detroit stopped its work of constitution-making long enough to declare that Ohio might run the desired line, but no authority save that of the United States should be exercised within the disputed tract.‡ At the same time an "Appeal to the People of the United States" was issued to show the position of the Territory and the "true" history of the boundary question.

Ohio soon began to carry out the idea of a concurrent jurisdiction. The result was renewed preparations for war,§ and a most unfriendly, though bloodless combat in Toledo. But the Legislative Council, which Mason had recently convened,|| was undaunted, and refusing, as flatly as their young Governor had done, to accept the terms of Rush and Howard, resolved that the enforcement of the laws of Ohio north of the Fulton line would

\* Act of General Assembly of Ohio, June 20, 1835, in "Early Michigan History," Pamphlet I.

† "Early Michigan History," Pamphlet I.

‡ Journal State Convention, 1835, p. 86.

§ Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 68-74. Niles Register, Vol VIII, p. 400.

|| Senate Documents, No. 6, XXIVth Congress, 1st Session, p. 67.

"involve a most serious violation of the laws of the United States."<sup>\*</sup> The Territory had ceased to champion its own cause now, and was protecting the honor of the Union.

This attitude of the Territorial statesmen, however, did not please those directly charged with the government of the Union. The President had informed Governor Lucas that, if a crisis came he should feel it his duty to maintain the constitution and laws of the United States,<sup>†</sup> and at this juncture he endeavored to prevent such a crisis by removing Mason and appointing John S. Horner of Virginia in his place.<sup>‡</sup> Nevertheless the crisis came. On the seventh of September the Ohio judges went to hold court in Toledo. Troops were mustered on both sides, the court was held at midnight and adjourned as Michigan forces came up.<sup>§</sup> Then the troops were dismissed and the "Toledo War" was over. Ohio authorities desisted from attempts to exercise authority beyond their old boundaries and peacefully remarked the coveted line;<sup>||</sup> the civil processes were gradually dropped,<sup>¶</sup> and Michigan remained in peaceful, if not unquestioned possession of the desired tract of land.<sup>\*\*</sup>

The contest was finished upon the floor of Congress. Why? For seven months the State and Territory had defied each other and the Federal power without abating one jot or tittle of their claims. For seven months or more, the press of either side had rung with the cries of war and notes of warning. For seven months, military

\* Ibid, pp. 76-79.

† Ibid, p. 116.

‡ Ibid, p. 86. Detroit Journal, September 10, 1836.

§ Niles Register, Vol. XLVIII, pp. 116, 383, 400. Michigan Pioneer Collection, Vol. VII, p. 72, *et seq.* Way, "The Toledo War," p. 40 *et seq.*

¶ Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, p. 102.

¶ Ibid, pp. 101, 152-3.

\*\* Ibid, pp. 100-1. Lyon's Letter to John Quincy Adams, Feb. 9, 1836.

preparations had been making, and now, with troops waiting to be mustered in, the armies were disbanded. On one day the papers tell of troops leaving for the seat of war and say, "How this affair will terminate, heaven only knows." The next day they tell the joyous news that the army is dispersed.\* No word of conciliation has passed between the executives, no Federal officer has interfered, and yet no word about the controversy is heard when next the legislative bodies meet save as they vote to pay the expenses of the bloodless war.†

But why this sudden cessation of war? The answer requires more than a single word for there was a combination of causes. Although there was intense feeling of pride and independence on both sides, still most of those who went to battle lived in the contested region. They had known each other as friends and neighbors and therefore had no desire to shed one another's blood. They went not unwillingly to war, but went home more gladly still. Those that dwelt farther to the north or south scarcely felt, with all their belief in local independence,‡ that war was possible or desirable. Some of the Ohio statesmen felt that the position of Lucas and the Assembly was most unreasonable, that whatever the rights of Ohio might be the question could be settled only by Congress and to attempt to settle it in any other way was utter folly.§ But, in the main, the people were willing to follow their irascible Governor. Michigan people almost to a man, were strong in the be-

\* Detroit Journal, Sept. 2, 5, 12, 1835. Niles Register, Vol. XLVIII, pp. 150, 161, 388; Vol. XLIX, pp. 33, 49.

† Michigan Senate Journal, 1835-6, pp. 39, 44, 54, 58, 98, 101, 112, etc.

‡ Detroit Journal and Courier, January 7, 1836.

§ Letter of Taylor Webster, M. C. of Ohio, to the "Columbus Hemisphere," January 6, 1835. Also letter of Thomas Morris, published in "Appeal to the People of the United States," 1835.

lief that the claims of their Territory were just and the conduct of their Governor was wise. The authorities on both sides, therefore, could rely upon the support of the people if there was war; they could also rely upon if they choose to keep the peace.

With public sentiment in this plastic condition it was easy for the leaders to be guided entirely by POLITICAL political conditions; and these pointed to CONDITIONS peace for both the State and the Territory.

By September, Governor Lucas was made to feel that to fight was dangerously to transgress the laws of the United States, while to wait was surely to win what his people wanted. Governor Mason felt that, since Ohio's act made it possible to do so, it was better to keep the peace and to settle the question after Michigan should be admitted, because the State was now ready to put itself into operation.

First, then let us consider how Governor Lucas was convinced of the unwisdom of enforcing the laws of his State. When the parties most concerned undertook to settle their quarrel for themselves, the President, as we have seen,\* urged the exercise of forbearance and dispatched to the contestants a copy of the opinion of the Attorney General upon the question. This stated that, by accepting the Ohio constitution with the boundary proviso, Congress consented to the northern extension of Ohio, on condition that the geographical fact therein suggested was found to exist *and* then was assented to by Congress. In the meantime the line as defined in the enabling act of 1802 was the actual northern boundary of

Ohio, and Michigan's authority extended  
**MARCH** southward to that line. It was therefore the duty of the President to maintain it.† The

\* Above page 27, *et seq.*

† Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 9-10.

laws of Ohio providing for an exercise of authority over a part of the Territory of Michigan involved a "most serious violation of the laws of the United States."\*

Governor Lucas had declared that this opinion was founded upon an *ex parte* presentation of the case, and had dispatched letters and messengers to Washington detailing

his side of the story.† But even then the

JULY President felt obliged to send word that,

should Ohio persist in enforcing jurisdic-

tion over the tract in question, he would interfere to

"sustain the supremacy of the constitution and laws of the United States."‡ This was the reason why

Lucas dared not lead his "million" on to war. How-

ever, the Governor of a great, and politically doubtful,

State, was not to be terrorized without having his wrath

assuaged. Assurance was given that the President would

veto any bill which would make Michigan a State before

the boundary was settled.§ The peace commission was

sent to council forbearance and reconcile the parties.

That failing,|| the President did all that could be done to

prevent the need of force on the part of Ohio by remov-

ing Mason and putting in his place a man who would, if

possible, prevent the enforcement of Michigan's claims.¶

So far as Michigan was concerned, it was not the pres-

ence of the new Governor which prevented further war;

for he was Governor only in name, and, if quiet had not

reigned on his arrival, there is good reason to think he

\* Ibid, p. 12.

† Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 85, 137, *et seq.*, 163-4.

‡ Ibid, p. 116.

§ Niles Register, Vol. XLVIII, pp. 328-9. Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, p. 164.

|| Above pages 28, *et seq.* Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 85, 163-4, 201-2. Niles Register, Vol. XLIX, p. 232.

¶ Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 86-89. Detroit Journal, September 10, 1835.

could not have secured it.\* The fact is the Michigan people, like those of Ohio, had no desire to fight their neighbors. They were convinced after the attempt of September 7, that their territory would not again be invaded, and were soon too much absorbed in establishing the State government to care whether or not the line was re-marked, or whether the cases of those accused of treason were tried. So far Michigan had won, but it was because Ohio was to win in the end. Of course there was re-crimination on both sides. Governor Lucas said in the beginning that Michigan authorities were upheld by the Cabinet.† And the newspapers were not slow to say that Mason relied on his "interests at court" and the support of General Cass.‡ Somewhat later, Cass was openly accused of using his position as Secretary of War to aid Michigan.§ During his years of Governorship over the Territory, Cass had shown himself much attached to the people whose interests he guarded, and had clearly stated his views as opposed to the claims of Ohio.|| But General Cass was too wise a man to use his Federal office to further a civil war, however much he may have wished to do so. Mason did ask for the use of United States arms, and some were issued to him from the arsenals in the Territory, but not by authority of the Secretary of War.¶ As for the charge that Michigan had the support of the President and Cabinet, it seems that at first there may have been reason for

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\* Ibid, pp. 94-102. Lyon's letters.

† Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 84, 144, 152, 159-160, 163.

‡ Niles Register, Vol. XLVIII, pp. 131, 166, 167, 276.

§ Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 158, 160, 161-163.

|| Above page 17-18.

¶ Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 24, 25, 41, 44, 118, 119-129, Memoirs of John Quincy Adams, Vol. IX, p. 231.

this feeling. If there were not support, there was delay in action which led the hopeful young Governor of a hopeful Territory to expect encouragement.\* But the opinion of the Attorney General† was, as John Quincy Adams said, “perfumed with the thirty-five electoral votes of Ohio, Indiana and Illinois.‡ It gave to Michigan undoubted authority over the disputed tract until Congress should act in the question of boundary; it declared the obnoxious law against foreigners§ to be valid for the present; but it showed the President the way to appease Ohio by pointing out that, while the executive must protect the possessions and laws of a Territory, he could replace an officer who insisted upon doing so;|| and at last, as we have seen, President Jackson did resort to this abuse of his appointing power.¶

In the fall of this memorable year of 1835 officers were elected in Michigan according to the Constitution which had been constructed in Detroit during the summer of the Toledo war. To the Federal authorities this was most embarrassing. Horner,\*\* whom the President sent to supersede Acting-Governor Mason,†† arrived. But he was received only by an occasional mob,‡‡ and the Washington authorities, not knowing what to say,§§ failed to send him instructions. They addressed letters to “Steven T. Mason, Esq,” with regard to “Secretary and Acting-

\* Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I. pp. 13-16 25, 28, 37, 38, 55, 63.

† Above page 27.

‡ Memoirs of John Quincy Adams, Vol. IX, p. 233.

§ Above page 26.

¶ Attorney General Butler's Opinion rendered March 21, 1835, Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 4-13.

¶ Cooley's "Michigan," Commonwealth Series, p. 221. Above p. 38.

\*\* Journal, Michigan House of Representatives, 1835-6, pp. 6-10.

†† Above page.

‡‡ Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 95-99, 101-2. Niles Register, Vol. XLVIII, pp. 158-9.

§§ Letter of Lyon to Horner, Nov. 30, 1835.



Governor Horner.”\* But Mason was chosen Governor by the people, and proceeded peacefully to conduct the affairs of state until the mortified Horner betook himself to the wilds beyond Lake Michigan.† When Congress opened, Lucius Lyon and John Norvell were in Washington ready to represent Michigan in the Senate, and Isaac Crary was ready for the seat in the House of Representatives.‡ Michigan was a State demanding admission.§ Not only the petitioners, but the Federal authorities hoped and expected that the immediate admission of the State would put a speedy termination to their respective difficulties, but all such hopes were dashed as soon as Congress opened.|| December sixth, four days before the application of Michigan was presented, Lyon wrote: “I think the State will be recognized as early as February.”¶ Three days after the question was given to Congress, he wrote; “It is doubtful whether we shall not be delayed till June next, perhaps longer.”\*\*

Now as in other years the boundary question was the great obstacle †† to the admission of Michigan, but there were other convenient obstacles upon which the opposition gladly seized. In this, as in every case in those days, the slavery question arose with the thought of admitting a new State. In making for themselves a constitution and State government the people of Michigan

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\* Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, p. 208.

† Lyon's Letters to Horner, Nov. 30, 1835 and Jan. 17, 1836.

‡ Journal, Michigan House of Representatives, 1835, 6, p. 31. Congressional Globe, XXIVth Congress, 1st Session.

§ President's Message, Senate Documents, No. 5, XXIVth Congress, 1st Session, Vol. I.

|| Letter of Lyon to Horner, Nov. 30, 1835; to C. D. Ellis, Nov. 30, 1835. Senate Documents, No. 5, XXIVth Congress, 1st Session, Vol. I.

¶ Letter to C. D. Ellis, Dec. 6, 1835.

\*\* Letter to Rix Robinson, Dec. 13, 1835.

†† Letter of Lyon to Charles Whipple, Jan. 3, 1836. Letter of Lyon to Horner, Nov. 30, 1835.

had laid themselves open to much legitimate objection. The liberal franchise requirements specified in that constitution also brought upon them much censure and opposition.\* Nevertheless the real objection to admission was the boundary dispute, and but for that, admission would have been granted at once. Indeed the recent contest on the border seems to have won friends for the would-be State, and, had there been the least loop hole for the wary ones, the bill for admission would have passed without delay.† Unfortunately, filled with the determination to hold what seemed their own, the framers of the Constitution of the new State had failed to define the boundary indefinitely on the south, but instead had described therein the exact line defined as the boundary of the Territory in 1805.‡ It was utterly useless to say that this did not menace the territory of Indiana,§ or that the boundaries of both Indiana and Illinois were irrevocably fixed. Both of those States had too much at stake to have a question raised regarding the right of Congress to disregard a line fixed by the Ordinance of 1787, and both worked systematically against the admission of Michigan.||

As soon as the Representatives from Michigan reached the Capitol, they saw that the admission of their State was to be a party question. All the commercial and political interests which influenced Congress in 1834 were intensified now. The recent approach to civil war

\* Congressional Debates, Vol. XII, pt. I, pp. 282-290. Benton's Abd. of Debates. Vol. XII, pp. 1719. Letters of Lyon to H. H. Comstock, March 29, 1836; John F. Bacon, Dec. 15, 1835; Steven T. Mason, Feb. 28, 1836, and others.

† Letter of Lyon to A. E. Wing, March 19, 1836.

‡ Letters of Lyon to A. E. Wing, Dec. 27, 1835, and to O. K. Green, Dec. 27, 1835.

§ Congressional Debates, Vol. XII, pt. I, pp. 1614. Congressional Globe, XXIVth Congress, 1st Session, Vol. I, p. 309.

|| Senate Documents, No. 211, XXIVth Congress, 1st Session, Vol. III, p. 21. Letter of Lyon to A. E. Wing, Dec. 27, 1835, and to Horner, Nov. 30, 1835.

had deferred many commercial transactions until the boundary question was settled, and those interested were demanding the immediate action of Congress.\* In view of an approaching presidential election the Whigs wished to give Ohio all she claimed, and the Democrats were afraid to act differently. "Everybody courted Ohio."† Yet not quite everybody, for the battle was no easy one. Day after day the contest waged in Committee and House. A bill for the admission of Michigan, and one to settle the northern boundary of Ohio were both given to the Judiciary Committee, as in 1836 previous years.\* All the arguments and all the evidence about the boundary question were produced anew. History was searched for examples of rights denied and powers usurped. Those on one side made freedom shriek at the tyranny of keeping eighty-thousand people shackled by a Territorial government, while others prophesied the destruction of the Federal government when its people were allowed to make States for themselves.† In vain John Quincy Adams in the House made one of his most eloquent speeches,‡ in vain Thomas Benton labored with the Senate. Again it was proposed to compromise and divide the disputed tract between the contending States;§ but to no purpose. June came and still the House was debating the question.

\* Executive Documents, No. 263, XXIVth Congress, 1st Session, Vol. VI and Debates in Congress. Letters of Lyon to E. D. Ellis, Dec. 6, 1835, to R. Robinson, Dec. 13, 1835 and John F. Bacon, Dec. 15, 1835.

† Letter of Lyon to A. E. Wing, Dec. 27, 1835, and other letters.

\* Congressional Globe, XXIVth Congress, 1st Session, p. 53. Congressional Debates, Vol. XII, pt. II, pp. 2080, 2102.

† Congressional Globe, XXIVth Congress, 1st and 2nd Session, appendix.

‡ Congressional Globe, XXIVth Congress, 1st Session, Vol. II, p. 85. Memoirs, John Quincy Adams, Vol. IX, p. 296. Letter of Lyon to Allen Hutchinson, Dec. 29, 1835.

§ Letter of Lyon to A. E. Wing, March 21, 1836. Executive Documents, No. 207, XXIVth Congress, 1st Session, Vol. V, p. 6. Congressional Globe, XXIVth Congress, 1st Session, p. 538.

It seemed to some that Congress would adjourn without defining the Ohio boundary or admitting Michigan, and they foresaw a border war which this time would not be bloodless.\* The end was near, however. The two contested bills were united, and on June fifteenth, 1836, the President approved "An Act to establish the northern boundary of Ohio, and to provide for the admission of the State of Michigan into the Union upon the conditions therein expressed." These conditions were that the people of that State should accept the boundaries specified in the bill.†

The conditional admission gave rise to as much discussion outside as it had in Congress. The people of the interested region had not been silent observers of the scene in Congress. Petitions and memorials had been sent in plenty,‡ and now, while Ohio people rejoiced, their defeated rivals had quite made up their minds to refuse to accept the conditions imposed by Congress. The boundaries prescribed for Michigan took from the State all the country for which the people had so long contested. It gave as the southern boundary, not the line running through the southern extremity of Lake Michigan, but one running from that point "to the most northerly cape of the Maumee Bay.§ And it added much more upon the northwest. For the western line was run to not due north through Lake Michigan and up to the Canadian line but was to leave Lake Michigan at

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\* Congressional Globe, XXIVth Congress, 1st Session, p. 670. *Memoirs of John Quincy Adams*, Vol. IX. p. 291, *et seq.*

† Statutes at Large, Vol. V, p. 49, House Journal, XXIVth Congress, 1st Session, p. 1002 *in passim*. Senate Journal, XXIVth Congress, 1st Session, p. 264. Senate Documents, No. 211, XXIVth Congress, 1st Session, Vol. III.

‡ House Journal, XXIVth Congress, 1st Session, pp. 673, 719, 722, 894, 942, 1067. Knapp, p. 255. Executive Documents, No. 274, XXIVth Congress 1st Session, Vol. VII, No. 210.

§ Statutes at Large, Vol. V, p. 49.

Green Bay and run thence by a circuitous route to the point where the Canadian line last touches Lake Superior.\* By this arrangement four hundred square miles of territory were taken from the Michigan which Congress had established in 1805, and nine thousand added to it. This addition was, however, at first almost as objectionable to the Michigan people as was the loss of the southern tract, but it was little noticed in the discussion of the terms of admission.†

Almost with the re-opening of the subject of admission it was reported that Congress would  
 ASSENT admit the State, if the people thereof would accede to certain conditions. For months the people had been asking each other what they should do, if Congress did make such a demand. Should Michigan remain a State out of the Union, or should the condition be accepted and the State enter the Union?‡ Resolutions denying the power of any tribunal on earth to compel the people to submit to Ohio, or to dismember the State,§ had been passed again and again, and the papers had discussed every phase of the question. Now came the time to act.

Congress had provided that the assent to the change in boundary should be given in a convention elected by the people for the sole purpose of giving such assent.|| Accordingly the Legislature of the State, not yet a State, called a convention† which met in September, in Ann Arbor. The members of this convention, forty-

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\* Statutes at Large, Vol. V, p. 49.

† Below pt. II.

‡ Newspapers of the day. Letters of Lyon to A. E. Wing, Dec. 27, 1835, and to O. D. Richardson, Jan. 3, 1836.

§ Executive Documents, No. 274, XXIVth Congress, 1st Session, Vol. VII; Vol. V, Nos. 207, 210. Lyon's Letter to A. E. Wing, Dec. 27, 1835.

|| Statutes at Large, Vol. V, p. 49. Congressional Debates, Vol. XII, pt. I, pp. 10, 19, *et seq.*

nine in all, were by no means agreed upon the main question. The members from Wayne, Lenawee, St. Joseph, St. Clair, Calhoun, Branch, Hillsdale, Chippewa, Ottawa, Allegan and Barry counties wished to give assent, believing "that our assent, in the way proposed by Congress compromises no honor and forfeits no right."\* They believed that the question of the boundary could be determined only by the Supreme Court of the United States, and the right way to get the question before that body was for Michigan to be admitted as a State.† But a majority of seven believed that the whole proceeding was unconstitutional. The constitution of the State, they held, gave the Legislature no authority to call such a convention; Congress, they said, had no power to alter the borders of a State without its consent, and they therefore voted against the acceptance of the terms of admission. At the same time they voted to send delegates to Washington to aid their Representatives in enforcing their claims at the next session of Congress.‡

The conflicting views which had been manifested in the convention were, of course, only expressions of the different sentiments prevailing throughout the State. It had been easy to talk of remaining a State out of the Union while the obnoxious bill was being discussed in Congress. Now that the question was to be decided at home, people began to ask what would be the status of a State out of the Union. It was well enough to call the act of admission a "Bill of Abomination,"§ and to say it was hardly desirable to enter a Union of "gamb-

\* *Laws of Michigan, 1835-6*, (Kingsley), p. 16. *Michigan House Journal, 1835-6*, pp. 35-8, and *Senate Journal, 1835-6*, p. 30.

† *Journal of the Convention*, p. 22-3.

‡ *Journal of the Convention*, Sept. 26-30, 1835, pp. 19, 27, *et seq.* *Executive Documents*, No. 46, XXIVth Congress, 2nd Session, Vol. II, pp. 2-7.

§ *Detroit Free Press*, June 24, 1836.

lers and pickpockets.”\* It was very well to say that Michigan would not participate in the national councils if to do so she must be “mailed, humbled and degraded.” It was very well to ask, if in order to gain admission the State must “sell a portion of her brethren ‘like Joseph into Egypt’.”† It was very well to call upon the two hundred thousand freemen to stand together to “extricate your new State from the difficulties and injuries of the past, and to preserve inviolate its integrity, its character, and its sovereignty.”‡ The plain truth was, Congress had put Ohio in possession of the desired tract of country, and the forces of the United States would be used against Michigan if another Toledo campaign were attempted.§ Everybody was beginning to see that the State could gain nothing by remaining in its present anomalous condition, while there was much to gain by submitting at once to the inevitable. The most evident advantage of an immediate admission was a share in the distribution of public money. The plan of distributing the surplus revenue among the States was soon to be tried. It was feared that Michigan would receive no part of this money unless admitted before the distribution began. Michigan people calculated the share which would fall to them would be four hundred thousand dollars,|| and this amount seemed immense to the ambitious young statesmen.

Before the convention met all of the democratic papers, except those published in the border region,

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\* Letter of Lyon to Z. Pitcher, March 12, 1836.

† Journal of the Convention, p. 35.

‡ Journal of the Convention, p. 40.

§ Letters of Lyon to Charles C. Hascall, Feb. 21, 1836, Edward Munday, Feb. 26, 1836, and to Governor Mason, Feb. 28, 1836. Congressional Debates, Vol. XIII, pt. I. pp. 205-6, *in passim*.

|| Detroit Free Press, July 21, 1836.

urged the acceptance of the terms prescribed.\* There was a little effort made to show that the northern addition was worth something,† there was even a proposition to wait and try to get more of Wisconsin.‡ There was talk of its being necessary to accept the condition in order to preserve the harmony of the Union.§ But the emphasis was put on the fact that money would be secured if assent were given in time.

As soon then as the September convention reported their dissenting vote the agitation was renewed, and in a few weeks the democratic leaders demanded another convention. Through the papers, || Gen. John B. Williams, and others called upon the electors of the different counties to chose delegates to a convention to consider the proposition of admission. The dissenters refused to consider such a measure and put no ticket¶ in the field. But elections were held regularly and under the usual officers in every county of the State, except in Mason and Macomb.\*\* The members of the convention, which met in Ann Arbor on the fourteenth of December, were naturally all of one mind, although they had been elected by a vote larger by six hundred than that polled for the September convention.†† After a two day's session this convention, known as the "Frost-bitten Convention," adjourned, having declared the assent of the people to the conditions imposed. Congress had no constitutional ✓ right, they said, to require the assent of the people to a change in boundary as a condition of admission, never-

\* Detroit Free Press, August 24, 1836.

† Detroit Free Press, August 24, 1836.

‡ Ibid, August 19, 1836.

§ Ibid, June 25, 1836.

|| Ibid, Dec. 3, 1836.

¶ Ibid, Dec. 7.

\*\* Journal of the Convention, pp. 49-50.

†† Detroit Free Press, Dec. 20, 1836. Journal of the Convention, p. 2.



theless, since such assent was required, it was given "as the interest and prosperity of the State will be greatly advanced by our immediate admission into the Union . . . . .; and the people of the said State are solicitous to give to her sister States and to the world, unequivocal proof of her desire to promote the tranquility, and harmony of the confederacy, and to perpetuate the unity, liberty and prosperity of the country."\* Word was duly sent to the President that the people of Michigan accepted the terms of admission.†

According to the act providing for the conditional admission of Michigan, the State was to be admitted by proclamation of the President as soon as the required assent was given.‡ But Congress was in session when word was received from the second convention, and

President Jackson saw fit to submit the matter to that body.§ This re-opened the whole discussion. There was no possibility of changing the vote on the question of the southern boundary, but the old straw was threshed over in many of the speeches. The chief subject of debate this time, however, was the validity of the work of the second convention.|| Congress had not specified the manner in which the assenting convention was to be called, but the first one had been assembled by order of the Legislature.¶ The Governor refused to call a second convention and accordingly it was assembled by spontaneous personal calls.\*\* Many of the Whigs, who had before said the

\* Journal of the Convention, p. 48.

† Ibid, p. 50-1. Executive Documents, No. 46, XXIVth Congress, 2nd Session, Vol. II.

‡ Statutes at Large, Vol. V, p. 49.

§ Executive Documents, No. 46, XXIVth Congress, 2nd Session, Vol. II.

|| Congressional Debates, XIII, pt. II, pp. 1440, 257-264.

¶ Above page 48.

\*\* Above page 51.

Michigan Legislature had only as much power as a temperance society,\* now held that the convention called by that body was the only legal convention.† The majority of the Democrats, of course, held that the people could always act in their primary capacity.‡ They held, therefore, that the second convention was legal and its acts authoritative. Right or wrong this opinion prevailed, and the vote of the second convention was accepted. After nearly a month of debate a bill for the admission of Michigan was passed. On the 1837 twenty-sixth of January, 1837, Michigan became in law what for over a year she had been in fact—a State.§

Both Judge Cooley and Judge Campbell consider this law of Congress based on an illegal act since the second convention was not called nor were its proceedings attested by State authorities.|| But those under whom the first convention was convened were not recognized by the United States officials as other than private individuals. The political life of the State had been for nearly two years too irregular and revolutionary to make any one over particular regarding the regularity of the admission, and most people were glad to accept the verdict of Congress. Even Governor Mason advised accepting the results of the action of the second convention, and urged upon the people "patriotic obedience to the will of the people of the United States."¶ The

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\* Niles Register, Vol. XLIX, pp. 219, 427.

† Congressional Debates, Vol. XIII, pt. II, 257, 261.

‡ Michigan House Journal, 1835-6, p. 342. Congressional Debates, Vol. XIII, pt. II, pp. 241-256.

§ Statutes at Large, Vol. V, p. 144. Senate Journal, XXIVth Congress, 2nd Session, p. 93. House Journal, XXIVth Congress, 2nd Session, p. 285.

|| Cooley, "Michigan," p. 224; Campbell, "Outlines of the Political History of Michigan," p. 477.

¶ Journal Michigan House of Representatives, 1837, pp. 6-8.

Legislature of Michigan recompensed, as far as possible, the Representatives falsely accused of bartering away a part of the State \* by the passage of a resolution thanking them for the "untiring zeal and unremitting fidelity with which they have tried to sustain the rights of the State."\* Within the State as well as out there appears to have been a feeling of relief, if not of satisfaction. Of course there were occasional remarks about the lost country, and some faint hope perhaps of re-

1838 gaining it.† At the session of 1838 the Legislature authorized the Governor to consult some of the jurists of the country regarding the legal right of the State to the disputed tract.‡ The opinions rendered were against the claims of Michigan; and the question was given its final notice when Governor Barry, in his inaugural address in 1842, referred to the unprecedented success of the State which had been admitted "only after a surrender of a valuable portion of its territory."§

Such is the history of the establishment of the southern boundary of Michigan. The question of the rights involved in this much disputed question remains to be studied.

The claims of Michigan were set forth in MICHIGAN 1818, and all the arguments thereafter made were but repetitions of this statement made by the Governor and Judges\* at that early day. These claims were:

First, The Ordinance of 1787, was a compact entered into by the United States, the ceding States and

\* Below page, pt. II.

\* Journal, Michigan House of Representatives, 1837, p. 181.

† Blois, "Gazetteer of the State of Michigan," p. 206.

‡ Journal, Michigan House of Representatives, 1838, pp. 463, 479, 481.

§ Journal, Michigan House of Representatives, 1842, p. 10.

\* Above page 13.

the people of the Northwest Territory. It could, therefore, be dissolved only by the common consent of the parties thereto.

Second, The southern boundary of the State was a line running east and west through the southerly extremity of Lake Michigan. This claim was based entirely upon Article V of the Ordinance of 1787. This article describes the boundaries to be given to three States which are to be formed within the Northwest Territory and then provides that "the boundaries of these States shall be subject, so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of said Territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted.....into the Congress of the United States, on an equal footing with the original States....

....."\*

Third, When Congress created the Territory of Michigan in 1805, this provision of the Ordinance was so far carried into effect as to vest in the people of that region an inalienable right of admission into the Union as soon as they should number sixty thousand. To reduce later the number of people within the Territory by fixing the southern boundary farther north, would be to retard progress toward State government; and that Congress could not do lawfully, even had it power to change the boundary line.†

This theory of inalienable rights bestowed by an in-

\* Ordinance of 1787, Article 5.

† Memorial of the Governor and Judges, 1818, Archives State Department. Lansing. Senate Documents, No. 354, XXIIIrd Congress, 1st Session, Vol. IV, pp. 8-30.

violable contract was, as has been said, maintained by Michigan to the last. Such a theory is not tenable. Today all agree that one Congress cannot bind another. Furthermore, it has been decided that, since the terms of the Ordinance of 1787 were not embodied within the Constitution of the United States, its terms are not binding upon the Government. But, as a matter of fact, the parties to the compact gave their consent to any changes which had been made in the fifth article of the Ordinance. The old States which gave the land silently agreed to the boundaries of Indiana and Illinois. By silent acceptance they consent to the change in the Ohio boundary. The three States just mentioned certainly desired and accepted their boundaries.† Michigan failed to send an official remonstrance when Congress accepted the assent of the "Frost-bitten Convention," and received the act of admission as if it were based on a valid act. To all intents and purposes, therefore, the compact of 1787 was not disregarded, and if it had been the action would not have been unlawful.

The claims of Ohio on the boundary question were not fully set forth until 1833.\* They rested chiefly on the expediency of giving Ohio the desired line; but since Michigan insisted upon the law of the question, Ohio could not ignore that side. So far as the law was considered by Ohio, stress was laid upon the interpretation of the Ordinance of 1787. Granting, it was said, that the Ordinance of 1787 was inviolable, it should be read in the light of the intention of its framers and not by the letter of the document. The maps used in describing the boundary lines

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† Chancellor Kent, in *Michigan House Documents*, 1839, pp. 30-34. Cooley, "Constitutional Limitations," pp. 38, 39. (Sixth edition.)

\* Executive Documents, No. 243, XXIIIrd Congress, 1st Session. Vol. IV.

of the proposed States in the west show Lake Michigan as extending south to  $41^{\circ} 39'$  north latitude instead of only to  $42^{\circ} 20'$ .<sup>\*</sup> Consequently the framers of the Ordinance must have supposed that a line running through its southerly extreme would leave a larger portion of country to be included within the State of Ohio, and would also give that State the whole of Lake Erie. The evident intention of the framers of the Ordinance was to make States of convenient size, and with equal commercial facilities; consequently when it was discovered that the dividing lines described in the Ordinance failed to accomplish this purpose, they should be made to do so. Boundaries should be made to conform to the intention of the Ordinance, not its letter.<sup>†</sup>

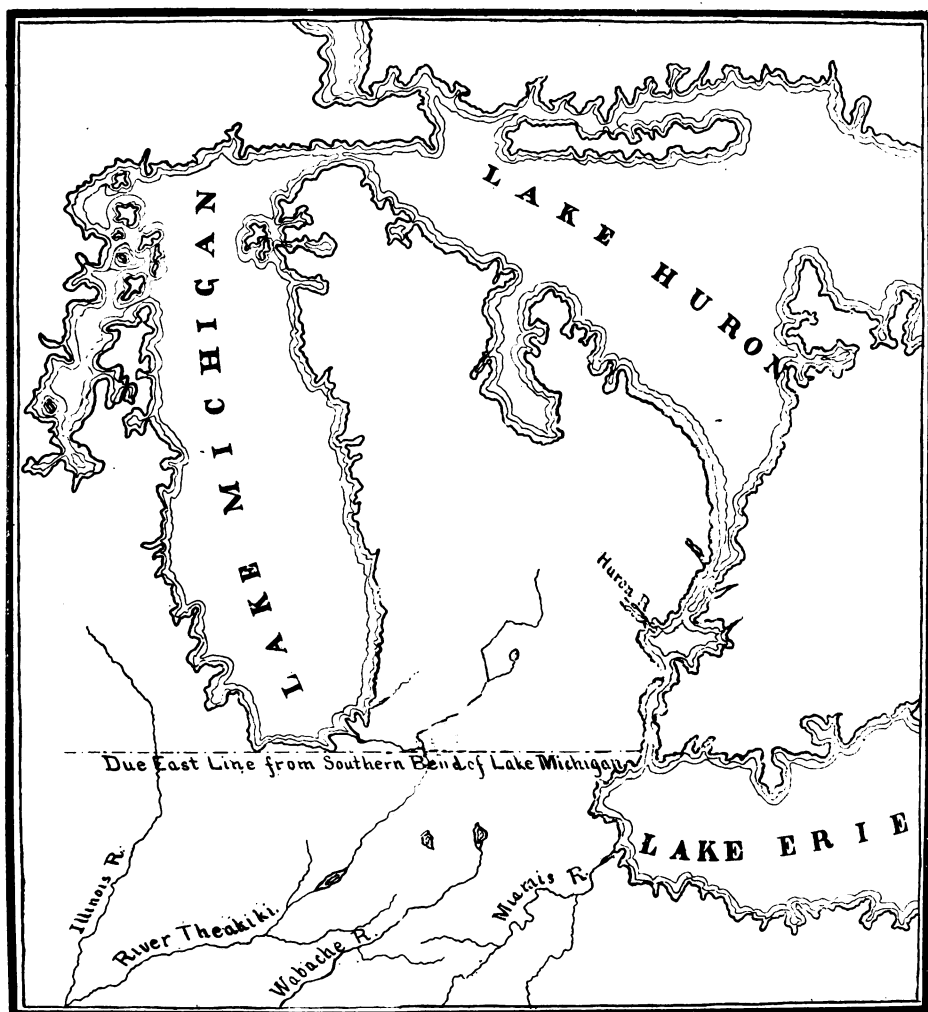
To prove that the Ordinance line was founded upon a false geographical assumption, the Ohio people brought forth not only maps, but showed that the boundary described in the enabling act, which was supposed to be in accord with the Ordinance of 1787, was an impossible line. The line described in the enabling act makes the northern boundary of Ohio run due east from the southerly extreme of Lake Michigan, "until it shall intersect Lake Erie or the territorial line, and thence with the same through Lake Erie to the Pennsylvania line."<sup>‡</sup> If this line were to go due east, they said, it would not strike the international line. Moreover it would leave only a small portion of Lake Erie in Ohio, and would cut off from that State a portion of country which nature and the Pennsylvania line had given to that State alone. This claim however was of little force since its truth de-

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<sup>\*</sup> Senate Documents, No. 211, XXIV Congress, 1st Session, Vol. III, pp. 47-48.

<sup>†</sup> Senate Documents, No. 211, XXIVth Congress, 1st Session, Vol. III, pp. 40-41.

<sup>‡</sup> Enabling Act for Ohio, Section 2.



Relative position of Lake Michigan and Lake Erie, according to Mitchell's map of 1755.  
From Senate Documents, No. 211, XXIVth Cong., 1st Sess., Vol. III.





pended upon the location of the international line, and about that surveyors disagreed.\* Ohio claimed further, that the purpose of the Ordinance makers in naming the line running through the southern extremity of Lake Michigan was not to make that, necessarily, a dividing line between the tiers of States; but to prevent the southern States being made smaller by having the others pushed down below that line. In other words the fifth proviso of the Ordinance meant that the southern tier of States might be extended as far north as Congress chose, but the northern tier could not be extended farther south than this fundamental line.† As a basis for this claim it was remarked that the Ordinance gave Congress authority to form one or two States *in* that portion of the Territory lying north of the line, whereas had the framers intended to imply that the whole must be formed into two States, they would have made the sentence read “Congress has authority to form one or two States *of* that portion of the Territory.”‡ It is easy to see that such a proposition might be answered by saying that the whole article is descriptive of boundaries within which States were to be formed, and therefore the word “*in*” was used; otherwise there would be no use in prescribing boundaries.§ This of course is a question of interpretation and can never be settled. It is one upon which

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\* Senate Documents, No. 243, XXIIIrd Congress, 1st Session, Vol. IV, pp. 2-3, Senate Documents, No. 49, XXIIIrd Congress, 1st Session, Vol. II; No. 149, Vol. III, p. 11. Senate Documents, No. 211, XXIV Congress, 1st Session, Vol. III, pp. 32-33, 47-49. Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, pp. 107-115. Senate Documents, No. 2, XXIVth Congress, 1st Session, Vol. I, p. 198.

† Senate Documents, No. 243, XXIIIrd Congress, 1st Session, Vol. IV, p. 7.

‡ Senate Documents, No. 211, XXIVth Congress, 1st Session, Vol. III, pp. 40-50.

§ Senate Documents, No. 235, XXIIIrd Congress, 1st Session, Vol. III, pp. 4-5. Senate Documents, No. 364, XXIIIrd Congress, 1st Session, Vol. IV, p. 23. Senate Documents, No. 211, XXIVth Congress, 1st Session, Vol. III p. 26,

students of the Ordinance still dispute. Fortunately it is of no practical importance now the question is settled.

A further claim to a northern extension of Ohio was founded upon a clause of the enabling act for Ohio which provided that Congress should be at liberty, either to attach all the territory lying immediately north of the proposed State of Ohio to that State, or to dispose of it otherwise in conformity to the Ordinance of 1787.\* This provision, it was said, clearly indicated that the Congress of 1802 did not understand the line running through the southern bend of Lake Michigan to be a line which must separate the northern and southern States. But such a provision proves nothing as to the interpretation of this section of the Ordinance, since the State of Ohio was erected before Congress had definitely adopted the policy of creating five instead of three States.

The strong point, however, of the claimants† was that Congress had a perfect right to divide the public domain regardless of the Ordinance of 1787; and, having this right, had given to Ohio a northern boundary line extending from the foot of Lake Michigan to the north cape of Miami Bay. It will be remembered that when the Ohio Constitution was framed in 1802, the boundaries defined in the enabling act were adopted with the proviso that *if* the line described as the north boundary should intersect Lake Erie east of the mouth of the Miami River, then, *with the assent* of Congress, the northern line should run from the southern part of Lake Michigan to the most northerly cape of Miami Bay.‡ Con-

\* Enabling Act for Ohio, Section 2.

† The Ohio people did not urge, as they might have done, that the first Governor of the Northwest Territory did not consider any of the Ordinance lines as inviolable. See St. Clair Papers, Vol. I, p. 215, Vol. II, pp. 590, 594.

‡ Above, pp. 4-5. Ohio Constitution, 1802, Article VII, Section 6. Senate Documents, No. 364, XXIIIrd Congress, 1st Session, Vol. IV, p. 60. Congressional Globe, XXIVth Congress, 1st Session, Vol. II, p. 163. Senate Documents, No. 211, XXIVth Congress, 1st Session, Vol. III.

gress accepted this constitution and thereby, it was said, accepted the boundary proviso and, in so doing, gave Ohio the desired northern extension. We have seen in the course of our study, that from the moment of admission, the Ohio people sought to have Congress definitely consent to this proviso, and that Congress repeatedly refused to declare the proviso line to be the northern boundary of Ohio.\* In 1835 the President acted upon the principle that no such assent had been given.† And the Attorney General declared, not only that it had not been given, but that the line was not the true northern boundary of Ohio until expressly declared to be such by Congress. This last did not necessarily overthrow the idea that Congress accepted the proviso in accepting the Ohio Constitution because, the Attorney General said, the proviso expressly declared *if* a certain geographical fact were ascertained then *Congress consenting*, the line proposed was to be the boundary.‡ This assent, we have seen, was not given until 1836, consequently Ohio did not extend to this northern line until that year. In law then, as in fact, we must conclude that until 1836 the Territory of Michigan extended south to the Ordinance line and the boundary of 1805.

But it was not so much upon the law of the case that the argument for Ohio rested, as upon the question of equity and expediency. The limits Michigan proposed for herself would make that State, they said, not only much larger than Ohio, but one of the largest States in the Union; and with longer coast line than any other State of its size. Ohio on the other hand would

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\* Above pp. 7, 8, 10, 12, 16, 17, 23.

† Above pp. 28, 40.

‡ Senate Documents, No. 6, XXIVth Congress, 1st Session, Vol. I, p. 8. Executive Documents, No. 243, XXIIIrd Congress, 1st Session, Vol. IV, p. 6.

have little coast line besides being one of the smallest States of the west. The only equitable division of the country therefore depended upon an extension of Ohio at the expense of Michigan.\*

Expediency pointed likewise to this division of the country. The commercial interests of Ohio as well as the country at large demanded that Ohio, the key to the west, should have as many lake ports as possible, and particularly a lake port for the terminus of a great canal.†

For some years Congress had given aid to internal improvements in Ohio.‡ One of the greatest of these undertakings was the Wabash and Erie Canal, and it was suddenly discovered, by those interested, that this enterprise would be almost useless unless it could terminate at a point within the disputed tract.§ This point chanced to be that upon which eastern capitalists had once undertaken to build a great city. Years had passed and the city was unheard of in the Port Lawrence township which Michigan called her own.|| But when the terminus of the great canal was fixed only eight miles away, it was easy to see that its most natural outlet would be below the rapids and directly on the Lake where the speculator's city had been located. Of course those who had large interests at stake preferred to be within the prosperous State of Ohio rather than within the new State; and those whose business interests were elsewhere saw that another lake port would mean much even to

\* Senate Documents, No. 149, XXIIIrd Congress, 1st Session, Vol. III, pp. 22-3.

† Ibid, pp. 21-2.

‡ Statutes at Large, Vol. III, p. 617, Vol. IV, pp. 242, 305, 393. Niles Register, Vol. XXVIII, p. 10.

§ Senate Documents, No. 149, XXIIIrd Congress, 1st Session, Vol. III, pp. 4-5 No. 211, pp. 24, 39, Vol. IV. No. 354, pp. 76-77.

|| Waggoner, "History of Toledo and Lucas Co."

avored Ohio.\* Austin E. Wing declares that when he was Michigan's delegate, the Cincinnati Company and bodies of eastern capitalists sent lobbies down to Washington to induce Congress to extend the border of Ohio on the north.† Certainly there was reason for such action; those interested in the prospective city, as those interested in the canal, must see the advantage of a lake outlet, even if Michigan people did declare that Maumee was just as good a terminus as Toledo could possibly be.‡ Speculators rushed in to secure lots in the prospective city and staked their all on its being a part of Ohio.

Michigan too had commercial interests at stake. Two railroads had recently been started which were to terminate near Toledo.§ The men most interested had much influence at home, and may have done much to fan the flame of patriotism until their fellow citizens were ready to fight for the strip which had, so far, belonged to them. But what could a handful of Michigan capitalists do against capitalists from Ohio and the east? Today, with our private ownership of railroads and our interstate commerce laws, we care not if a railroad terminates outside the State through which it runs. But in 1835 canals were an important means of transportation, and furthermore they were owned by the State. The people of the different States were not so friendly in those days as in these, and there was a universal feeling that the enterprises and advantages of one State should be in no way subject to the jurisdiction of another. Ohio felt this strongly, and had no difficulty in convincing business

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\* Executive Documents, No. 243, XXIIIrd Congress, 1st Session, Vol. IV p.7.

† Letter of John Norvell, May 15, 1836, p. 7.

‡ Senate Documents, No. 364, XXIIIrd Congress, 1st Session, Vol. IV, p. 29-30. Congressional Debates, Vol. X, pt. II, p. 1904.

§ Executive Documents, No. 211, XXIVth Congress, 1st Session, Vol. III, p. 24. Territorial Laws of Michigan, Vol. III. pp. 11, 26, Vol. IV, pp. 148, 153.

men that it was far better for everybody to have the great canal enter the lake directly at Toledo than to terminate at Maumee.\*

With State and eastern capitalists on their side, Ohio people were further favored by political conditions. Ohio was a doubtful State † and both parties, therefore, sought the votes of her people.‡ Michigan, on the other hand, like the accompanying slave State, Arkansas, was surely democratic. Under any circumstances the Whigs would have refused to admit Michigan so soon before a presidential election; now they had a double wish to do so; since by so doing they might win a doubtful State. The Democrats were sure of Michigan and Arkansas, but these together would give them only six additional votes, and to win them was to risk losing the twenty-nine votes of Ohio, Indiana and Illinois.§

Expediency, therefore, was upon the side of Ohio in the boundary dispute, and law was not against her. Where then did justice lie? Had no additional land been given to Michigan, Ohio would still have been smaller than that State by about seven thousand square miles.\* Ohio has a coast line along the southern shore of the smallest of the Great Lakes. Michigan, without Toledo, would have a port upon Lake Erie, and besides was bounded by Lake Huron, Lake Superior and Lake Michigan. It could not then be unjust to take a strip of land from the Territory of Michigan in order to give Ohio another lake

\* Senate Documents, No. 149, XXIIIrd Congress, 1st Session, Vol. III, p. 22. Senate Documents, No. 211, XXIVth Congress, 1st Session, Vol. III, pp. 29, 30.

† Niles Register, Vol. XLVII, p. 198.

‡ Above pp. 42-4. Abd. of Debates, Vol. XII, p. 370, *in passim*, Appendix Congressional Globe, XXIII Congress.

§ Niles Register, Vol. XLVIII, p. 201.

\* Number of square miles in Michigan 57,430, and in Ohio 40,760. Approximate number of square miles added to Michigan in 1836, 9,500. See Census Bulletin, No. 23, 1891. Michigan coast line, 1,600 miles, "Michigan and Its Resources," published by the State, 1893.

port, It was, however, unjust to let the people of Michigan settle unwittingly upon land belonging to another State. It was not fair to let the Territorial and State authorities foster industries and expend money upon a region to which it had no claim. Here then lies the injustice of 1836; not in the decision of Congress, but in the delay in reaching any decision.

In 1836 the Michigan-Ohio boundary was fixed theoretically, practically it is still unsettled. The line established as the dividing line between these two States had been marked by Harris in 1817.\* It was re-marked by the Ohio commissioners in 1835,† and by the United States Land Office in 1837.‡ But, few permanent monuments of any of these surveys are left, and the people residing along the line are much troubled to know in which State they live.§ To remedy this trouble, the Ohio Assembly has just (April, 1896) provided for the appointment of a commission, to act with commissioners from Michigan, in deciding the exact location of the line which divides these States.

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\* Above page.

† Above page.

‡ Documents in the Ohio Archaeological and Historical Society Publications Vol. IV, p. 172.

§ Ibid, pp. 174, 178.

## PART II.

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### THE WESTERN BOUNDARY.

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The history of the Western Boundary of Michigan is shorter and less complicated, but hardly less interesting than that of the southern boundary.

In 1805, as has been said, Michigan Territory was created east of a line running from the southern bend of Lake Michigan due north to the Canadian line.\* Some thirteen years later, all of the country north

1818 of Indiana and Illinois and east of the Mississippi, was added to Michigan.† This addition was for temporary purposes only, but evidently it could not be sufficiently temporary to suit some of the people concerned. The inhabitants of the annexed region at once began to complain of the great evils resulting from so distant a seat of government, and in 1824 they petitioned Congress for a separate organization, to be known as Chippewa Territory.‡ With this

1824 request began the struggle for the Upper Peninsula.

In those days Michigan was called "The Peninsula" quite as if there were only one, and the dwellers across the Straits felt their interests bound up with the people to the west, rather than with those to the south of them.

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\* Above page 5.

† Statutes at Large, Vol. III, p. 431.

‡ House Executive Documents, No. 34, XXIIIrd Congress, 1st Session, Vol. II, p. 2.



For this reason the people of Michilimackinac and the neighboring counties had signed the petition asking for the creation of the Territory of Chippewa.\* At once the

people of "The Peninsula" were aroused,  
1825 and the Legislative Council of the Territory immediately sent a memorial to Congress expressing surprise at the presentation of a petition for the division of the Territory. "Such a measure," they said, "even if it is ever to take place, is now entirely premature." And then they proceeded to state reasons for believing that the Michilimackinac country could never naturally belong to a government west of Lake Michigan, and if it could, that Congress had no right to detach it from Michigan. In creating that Territory, Congress, they said, had exhausted all the power given to them by the Ordinance of 1787.† Both petitions were

duly referred by Congress,‡ and nothing more was heard of the question for two years. Then "the  
1827 inhabitants of the northwestern part of the Territory of Michigan" asked Congress to separate them from Michigan proper, or "The Peninsula," in order that they might have the privileges of self-government, now impossible because of the distance from the seat of government at Detroit.\* No boundaries were specified in this request, and a similar one of a little later date asks that the new Territory be made west of Lake Michigan.† The Legislative Council agreed to

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\* Senate Journal, XIXth Congress, 2nd Session, pp. 68, 125.

† Journal, Legislative Council, 1824-9, pp. 17, 23-25.

‡ Senate Journal, XIX Congress, 2nd Session, p. 125. House Journal, XIXth 2nd Session, p. 216.

\* Reports of Committees, No. 56, XXIst Congress, 1st Session, Vol. I, pp. 11, 12.

† Reports of Committees, No. 56, XXIst Congress, 1st Session, Vol. I, pp. 11, 12. House Executive Papers, No. 35, XXth Congress, 2nd Session, Vol. II, p. 34.

urge the granting of this request,\* though the Council of two years before had questioned if there would ever be need of a government west of Lake Michigan.† The

House accordingly passed a bill for the crea-  
 1828 tion of Huron Territory.‡ But the bounda-  
 ries defined in the bill were displeasing to  
 all concerned. The people of the west objected to the  
 southern line, and those of the Lower Peninsula objected  
 to losing all of the territory north of the Straits of Mack-  
 inaw. These objections were duly presented to Congress,  
 and the Senate § failed to consider the bill for the erec-  
 tion of Huron Territory.||

As a matter of fact the Michigan statesmen were  
 very desirous of being relieved of the coun-  
 1829 try west of the lake. The Territory was  
 now controlled by a Governor and a Legis-  
 lative Council. The Council was of course supposed  
 to be a representative body, but could not be such  
 when distance often prevented the western members  
 from attending the sessions. Furthermore, the coun-  
 try beyond Lake Michigan was rapidly developing,  
 and its government required more care and expense than  
 some men were willing to expend upon a region tempo-  
 rarily annexed to the Territory. Besides this, the  
 northern part of Michigan was almost unknown and con-  
 sequently it was little valued. This combination of cir-

\* House Executive Papers, No. 66, XXth Congress, 2nd Session, Vol. II. Reports of Committees, No. 56, XXIst Congress, 1st Session, Vol. I, p. 4. Journal of Legislative Council, 1824-29, p. 112.

† Journal of Legislative Council, 1824-29, pp. 23-25.

‡ House Journal, XXth Congress, 1st Session, pp. 128, 172. House Journal, XXth Congress, 2nd Session, p. 191. Reports of Committee, No. 79, XXth Congress, 1st Session, Vol. II, or Reports of Committees, No. 56, XXIst Congress, 1st Session, Vol. I, Abd. of Debates, Vol. X, pp. 357-3.

§ Executive Papers, No. 35, XXth Congress, 2nd Session, Vol. II. House Journal, XXth Congress, 2nd Session, p. 419, 1485.

|| Senate Journal, XXth Congress, 1st Session, p. 111.

cumstances emboldened the representatives of the discontented upper counties. At the Session of 1829 they proposed asking Congress to annex to the new Territory of Wisconsin all that part of Michigan lying north of the Straits.\* Such a memorial was actually accepted by the Legislative Council, the vote being seven to six, and the names of Schoolcraft and Trowbridge being among the seven. But a few days later, wiser counsel prevailed; the question was reconsidered; the memorial was recommended and not again reported.\* That Governor Cass would have approved the measure seems evident from his message at the next session in which he says, there is prospect of the creation of a new Territory but he is "not aware that it can injuriously effect our interests."†

But when Congress again talked of a bill for erecting a Territory of Wisconsin,‡ the Council became aware that its provisions might be injurious and petitioned Congress to preserve the territorial limits of Michigan.§ Robert Irwin of Chippewa county voted against sending such a memorial. But he stood alone this time and the petition was allowed to do its work. Congress took no further action upon the bill for the creation of Wis-

consin Territory.‡ Governor Cass, too, was now convinced of the danger of losing part of Michigan. In his message of January 5, 1831, he advised the Council to send another memorial to Congress protesting against any division of the Territory as established by the act of 1805, such division being "equally injurious to our rights and subversive of our

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\* Journal of Michigan Legislative Council, 1824, p. 81.

† Ibid, page 84.

\* Journal of Michigan Legislative Council, 1824, p. 89.

† Journal of Michigan Legislative Council, 1824-9, p. 5.

‡ House Journal, XX1st Congress, 1st Session, p. 345. Reports of Committee No. 56, XX1st Congress, 1st Session, Vol. I.

§ Journal of Michigan Legislative Council, 1830, p. 130.

interests." He was doubtful of the efficacy of such a memorial however; for he adds that if of no immediate value it may be good to refer to when our political relations shall be such as to enable us to work under more favorable circumstances.\*

In the mean time the delegate from Michigan, Austin E. Wing, had again brought up in Congress the question of creating a new territory.† The Committee to which it had been referred reported in favor of or-

1832 ganizing the Territory of Wisconsin, with its eastern line running due north through Lake Michigan to the Canadian line. Apparently the memorial had been more efficacious than Governor Cass had hoped. The bill, however, failed to reach a final vote,§ and so there was opportunity for more trouble.

This came soon. Some of the Legislative Council proposed memorializing Congress for per-  
 1833 mission to form a State within the boundaries as fixed by the act of 1805.¶ Mr. Martin, then representing the counties of Michilimackinac and Chippewa, objected to the boundaries proposed on the ground that the citizens of the Island of Mackinac, and the country lying north of the Straits of that name, wished to be attached to the new Territory to be set off west of Lake Michigan.¶ The protest of Mr. Martin was sent to Congress, but with it went the memorial from the rest of the Council with its boundary

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\* Journal of Michigan Legislative Council, 1831, pp. 5-6. Senate Documents, No. 354, XXIIIrd Congress, 1st Session, Vol. IV, p. 30.

† House Journal, XXIIInd Congress, 1st Session, p. 39.

‡ Reports of Committees, No. 145, XXIIInd Congress, 1st Session, Vol. I, p. 2.

§ House Journal, XXIIInd Congress, 1st Session, pp. 882, 1210.

¶ Journal of Michigan Legislative Council, 1833, pp. 13-14.

¶ Journal of Michigan Legislative Council, 1833, p. 15.

clause unchanged.\* Both were useless, however, for the trouble with Ohio prevented the passage of an enabling act.†

This delayed enabling act gave another opportunity for the northern people to seek separation from the Lower Peninsula. At the next session of 1834 the Territorial Assembly Mr. Martin was ready for action. He got himself made chairman of a committee to prepare a memorial asking Congress to erect a State of Michigan and a Territory of Wisconsin. The committee gravely reported to the Assembly a memorial which specified that the proposed Territory should include the country lying "north of Lakes Michigan and Huron."‡ To prove that Congress had the right to grant such a request, the memorialists called attention to the fact that the boundaries of the Territory of Michigan had been changed when Indiana was admitted in 1818, and that such a change was legitimate in as much as the act of 1805 did not prescribe the boundaries of the *State* of Michigan, and by it "no rights were conceded to enable the citizens of Michigan to control the future legislation of Congress upon the subject."§ From 1818 when the Governor and Judges had protested against a northern extension of Ohio and Indiana, Michigan people had maintained that Congress had no authority to alter the boundaries of Michigan as described in 1805. || Mr. Martin's arguments were not sufficient to convince the Council that their claims had been unfounded, and they refused to send such a memo-

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\* Journal of Michigan Legislative Council, 1833. p. 15.

† Above pt. I.

‡ Journal of Michigan Legislative Council, 1834, pp. 15, 33-5.

§ Journal of Michigan Legislative Council, 1834, p. 35.

|| Above pt. I.

rial to Congress.\* A memorial was sent, however, asking for the erection of Wisconsin Territory, with an eastern boundary which should run through Lake Michigan and northward to the Canadian line.† Mr. Martin and his constituents, however, were not so easily put down. The people of Chippewa county sent a petition directly to Congress, and asked to be set off to the new Territory.‡ Wisconsin Territory was not established. Michigan was not made a State.§ Had either of these things happened the request of the northern people would not have been granted, however, for just at this time a proposition was made to extend Michigan even farther to the west. The proposal to extend rather than curtail Michigan on the north grew out of the efforts of Ohio to secure a northerly extension.

Ohio, it will be remembered, had long sought to include within her borders a strip of country from ten to five miles|| wide which was under the jurisdiction of Michigan. Congress had always refused or failed to sanction the claim of Ohio to this region,¶ but in 1834 special efforts were made to secure an acknowledgement of the line claimed by Ohio. Mr. Preston of South Carolina was chairman of the House Committee to which the question was referred. During the discussion, he was asked how much territory lay west of the proposed State of Michigan. On being told, he suggested that

\* Journal of Michigan Legislative Council, 1834, p. 40.

† Ibid, p. 159. Executive Documents, No. 34, p. 3, and No. 47, XXIIIrd Congress, 2nd Session, Vol. II. Senate Documents, No. 364, XXIIIrd Congress, 1st Session, Vol. IV, p. 3.

‡ Congressional Globe, XXIIIrd Congress, Vol. I, p. 144.

§ House Journal, XXIIIrd Congress, 2nd Session, p. 351. Congressional Debates, Vol. X, pt. II, p. 1724. Senate Documents, No. 364, XXIIIrd Congress, 1st Session, Vol. IV, pp. 3-43. Reports of House Committees, No. 334, XXIIIrd Congress, 1st Session, Vol. III.

|| Blois, "Gazetter of Michigan," p. 198 Hinsdale, "Old Northwest," p. 381.

¶ Above pt. I.

such a division of the country left too much territory west of Lake Michigan to form one State, and that it would be better to give Ohio what was wanted on the south, and extend Michigan on the west by running the boundary line through Lake Michigan to Green Bay and thence northwest to Lake Superior by a devious, but supposed waterway. Lucius Lyon, who then represented them in Congress, protested that Michigan people did not wish their State extended on the west. The Straits, he said, formed an impassable barrier between the Upper and Lower Peninsulas for a part of every year, and nature intended the Upper Peninsula to be a part of the southern State. His protest was vain, for the Committee were anxious to please the growing State of Ohio, and thought to appease Michigan, and at the same time prevent the possibility of the creation of another free State by adopting Preston's plan.\* Congress, however, failed to adopt the recommendation of the Committee† and the condition of Michigan remained unchanged, save that her bounds were temporarily stretched until they included even a part of Dakota.‡

The disaffection of the northern counties was shown again in the Constitutional Convention which 1835 met in May of 1835. Four members of the Convention vainly sought to insert in the Constitution the proviso: "That nothing herein contained shall prevent the Legislature of the State of Michigan from consenting to any such alteration of the western

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\* Wisconsin Historical Collection, Vol. IV, pp. 351, 355-57. Letters of Geo. W. Jones, 1896. Mr. Jones was the Delegate from Michigan in 1835-6. Senate Documents, No. 211, XXIVth Congress, 1st Session, Vol. III, p. 17, *et seq.*

† Senate Journal, XXIIIrd Congress, 1st Session, pp. 193. 302. House Journal, pp. 706, 716.

‡ House Executive Documents, No. 245, XXIIIrd Congress, 1st Session, Vol. IV. Statutes at Large, Vol. IV, p. 701.

boundary line of said State by which the Islands of Michilimackinac and Bois Blanc and the County of Chippewa may be detached from the State and attached to the district of country lying west of Lake Michigan....

.....”\*

Lucius Lyon paid no heed to the desires of the northern counties of Michigan, but did his best to include in the new State not only what had originally belonged to the Territory on the north, but as much more as could be secured. He succeeded, as the present boundary witnesses.† This statement seems not to agree with the one just made, that Lyon vehemently opposed the western extension of the State when it was proposed by Preston.‡ Nevertheless it is true. In 1835 Lucius Lyon was one of the Senators elected to represent the State as soon as it should be admitted.§ Lyon and his colleagues went to Washington before the opening of the next session of Congress. They were not officially recognized, but did what they could to secure the admission of their State. Lyon believed the State should have exactly the boundaries prescribed for the Territory and doubted the right of Congress to force the acceptance of others.|| But when he found Ohio was to have her way, and that Congress had the power, if not the right to change the southern line, and reduce the State by cutting off nearly four hundred square miles from the southern side; then he con-

\* Journal of the Convention, pp. 204-5. The four men were the two members for Mackinaw and Chippewa, Colbath of Monroe and Gidley of Jackson. See Convention Journal, pp. 2, 22.

† Statutes at Large, Vol. V, pp. 10, 59. Letter of Lyon to R. D. Turner, Feb. 17, 1840; to Col. A. Mack, Feb. 21, 1836, and to C. C. Hascall, Feb. 21, 1836.

‡ Above page 11.

§ Above page 33.

|| Letter of Lyon to L. D. Ellis, March 3, 1836, and to H. H. Comstock, March 9, 1836. Above page 17. Letter of Lyon to C. C. Hascall, Feb. 21, 1836.



cluded, to use his own expression, to "go in for all the country Congress will give us west of the Lakes," and proposed extending the State to the line which now divides us from Wisconsin.\* If Lucius Lyon had not "gone in" for this tract of land, Michigan would probably never have had the copper region. For the people of the State seriously objected to taking that "barren region;"† and Mr. Crary and Senator Norvell, the other members-elect of Congress, protested for many months against such an addition.‡ But Senator Lyon's views finally prevailed, chiefly, doubtless, because: first, there was a general feeling among the members of Congress that Michigan should be compensated for the land which political exigencies seemed to demand they should give to Ohio;§ and second, because it was felt by the Committee which considered the question that unless Michigan were extended on the north the remaining territory would be too large to make a single State, and to make two States of it would be disregarding the provisions of the Ordinance of 1787, and would increase the number of free States.||

It is customary to say that the Upper Peninsula was

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\* Letter of Lyon to Col. D. Goodwin, Feb. 4, 1836.

† See Detroit Free Press, 1836. Executive Documents, No. 274, XXIVth Congress, 1st Session, Vol. VII. Letter of Lyon to Sheldon McKnight, March 30, 1836, and to John E. Bagg, March 23, 1836.

‡ Wisconsin Historical Collection, Vol. IV, p. 353, Letter of Lyon to John S. Bagg, March 23, 1836; to Col. D. Goodwin, Feb. 4, 1836; to C. K. Green, Feb. 25, 1836, and to A. L. Wing, March 19, 1836, and others. Detroit Free Press, August 24.

§ Congressional Debates, Vol. XII, pt. I, pp. 750, 1006, 1008, *in passim*. Vol. XIII, pt. I, pp. 320; pt. II, p. 1442. Senate Documents, No. 211, XXIVth Congress, 1st Session, Vol. III, p. 16. Executive Documents, No. 207, XXIVth Congress, 1st Session, Vol. V, pp. 3-6. Congressional Globe, XXIVth Congress, 1st Session, Vol. II, p. 308. Wisconsin Historical Collection, Vol. IV, p. 357. Letters of Lyon to W. L. Newberry, Feb. 21, 1836, and to Col. Mack, Feb. 21, and others.

|| Senate Documents, No. 211, XXIVth Congress, 1st Session, Vol. III, pp. 16, 17. Congressional Globe, XXIIIrd Congress, p. 429.

not given in compensation for the lost southern strip, but that the fear of leaving opportunity for the creation of another free State led Congress to extend Michigan.\* This latter may have been the dominating idea with the Committee, but a careful reading of the speeches in Senate and House shows that the idea of compensation dominated the minds of most members of Congress, as well as the mind of Lucius Lyon.† Not that Lyon thought the nine thousand or so square miles in the north would compensate for the lost four hundred square miles but, he said, "If we lose on the south and gain nothing on the north and west, we shall be poor indeed."‡ Still Lyon was sufficiently acquainted with the country to know that it was not simply a place in which we could "raise our own Indians in all time to come and supply ourselves now and then with a little bear meat for a delicacy,"§ as he wrote to a friend. He knew then that a part of the land was fertile, and the fisheries fine, and he hoped that the copper mines, supposed to exist, might in time prove valuable.¶ He even prophesied that in ten years the State might not be willing to sell the land for forty millions of dollars.¶

Lyon's colleagues in Washington were, as has been said,\*\* slow to see that he was right in seeking a western extension of territory. But finally they joined him in his efforts to get all the land which could be attached to Michigan, "without material inconvenience to the peo-

\* Wisconsin Historical Collection, Vol. IV, p. 354.

† The Committee which considered the question had Schoolcraft report to them regarding the value of the region they proposed to annex to Michigan. See Schoolcraft's "Thirty Years," p. 547.

‡ Letters to Col. Mack, Feb. 21, 1836, and to C. C. Hascall, Feb. 21, 1836.

§ Letter to Dr. Philes, Feb. 18, 1836.

¶ Letter to C. C. Hascall, Feb. 21, 1836.

¶ Letter to Col. Mack, Feb. 21, 1836.

\*\* Above page 63,

ple who may eventually reside there.”\* Slow as were Senator Norvell and Representative Crary to see the advisability of securing more northern territory, the people of Michigan were still slower. When they learned that it was proposed to extend the State in that direction there was a great hue and cry. Through newspaper and memorial the people protested they did not want the sterile wastes of the north, and accused their Representatives of bartering away the fertile regions of the south for a barren and valueless tract in the region of perpetual snows.† So loud and vehement were their accusations, that some of the better-known Congressmen felt called upon to defend the Michigan delegation. Van Buren declared that never before had men clung more pertinaciously to their claims. They asked, he said, for the northern country only when the southern was surely lost.‡ Satisfied that their Congressmen had not been treacherous, still the people protested but, as Judge Cooley says, “even while protesting they acquiesced, satisfied in their hearts that princely compensation was made.”§

There was a time when Lyon feared the Committee would not give all he asked, or even anything, in the northwest. There were proposals to make the Ontagon or Chocolate River a part of the boundary.¶ But his wishes prevailed, and the Preston line which he now proposed was adopted.¶ The northern boundary, how-

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\* Letter to Col. Mack, Feb. 21, 1836, and to C. C. Hascall, Feb. 21, 1836. *Michigan Pioneer and Historical Collection*, Vol. III, p. 146.

† Letter of Lyon to H. H. Comstock, March 29, 1836. *Executive Documents*, No. 207, XXIVth Congress, 1st Session, Vol. V, pp. 2, 3, 6. *Free Press*, March 17 and July 7, 1836.

‡ *Congressional Debates*, Vol. XII, pt. I, p. 1006, 1014. *Congressional Globe*, XXIVth Congress, 1st Session, Vol. II, p. 310.

§ Cooley's "Address" at Michigan Semi-Centennial, p. 83.

¶ Lyon's Letter to A. L. Wing, March 21, 1836, and to John S. Bagg, March 23, 1836.

¶ *House Journal*, XXIVth Congress, 1st Session, p. 651. Above page 63.

ever, received little attention outside the Committee. The chief objection made to the line, in either House of Congress, was that the people of the annexed region had not shared in framing the constitution of the new State.\* Even in Michigan itself there was not much attention paid to the subject of the northwest boundary. The fury of the people against their representatives had subsided and they appear to have concluded that their leaders were wiser than themselves in this respect, or possibly they were too much exercised over other matters to have thought for this. At any rate, when the Governor submitted the act of Congress conditionally admitting Michigan, he failed to mention the northwestern boundary proposed.† The Legislature decided not to protest against the extension of the State.‡ The second assenting convention utterly ignored the subject,§ while the first indulged in a "single remark" only, to the effect that neither Congress nor the people of Michigan had a right to force a constitution upon the people beyond Lake Michigan.|| This was a most uncalled for, though perhaps natural, fling at Congress. There were no organized communities in the annexed region and few if any regular inhabitants. It was land not people which Congress added to Michigan in 1836, and the opposition protested against such annexation only for the sake of protesting.

Michigan became a State, and about the same time Wisconsin became a Territory, with the dividing

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\* Congressional Globe, XXIVth Congress, 1st Session. Debates on admission of Michigan in the Appendix. Congressional Debates, Vol. XII, pt. I, pp. 1007, 1009, 1020.

† Journal of Michigan, House of Representatives, 1836, pp. 295-305.

‡ Ibid, pp. 224, 235.

§ Journal of Conventions.

|| Journal of the Conventions, p. 34.





Supposed boundary between Michigan and Wisconsin, 1838.  
Senate Documents, No. 151, XXVith Cong., 1st Sess., Vol. IV.

THE LINE line described as running through the main channels of Green Bay and the Menominee River "to that head of said river nearest to the Lake of the Desert; thence in a direct line, to the middle of said lake, thence through the middle of the main channel of the Montreal River to its mouth," and thence direct across Lake Superior to the point where the territorial line of the United States last touches that lake."\*

Nothing now seemed left to be accomplished but the marking of the boundary line, and for this an 1838 appropriation was made in 1838,† at the suggestion of Senator Norvell.‡ The appropriation was so small, however, that nothing was done for two years when the work was transferred to the War Department and assigned to Captain Cram.§ A few months work sufficed to show that the line defined did not form a water boundary, as was supposed, inasmuch as the Lake of the Desert is not connected with either the Montreal or Menominee rivers.|| This the Captain reported and added that the line should be marked at once, as many islands in the rivers and the various channels in Green Bay would soon make the question of jurisdiction important.¶ This information at once became known to the Michigan Legislators who urged Congress to mark the line, and directed the Governor to appoint some one to aid the commissioners, to be appointed by the General Government,

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\* Statutes at Large, Vol. V, pp. 10, 49.

† Statutes at Large, Vol. V, p. 244.

‡ Senate Journal, XXIVth Congress, 2nd Session, p. 32.

§ Senate Documents, No. 151, XXVth Congress, 2nd Session, Vol. IV, p. 3. Map of Original Line.

|| Senate Documents, No. 151, XXVth Congress, 2nd Session, Vol. IV, p. 5, map.

¶ Senate Documents, No. 151, XXVth Congress, 2nd Session, Vol. IV, p. 6-8. Senate Documents, No. 170, XXVIIth Congress, 2nd Session, Vol. III, p. 5-6.

in establishing a boundary line.\* Congress acquiesced and, making a sufficient appropriation, ordered a survey of the country between the Menominee and Montreal rivers.†

Again Captain Cram went to work in our Upper Peninsula. There were many difficulties to be overcome.

The country was wild and rugged, and the 1842 Indians who inhabited it were at times a source of danger. He was able, nevertheless, to collect valuable information and to make a most interesting report to the next Congress.‡ He accompanied his report with a map of the region which is still recognized as authoritative. In this report Captain Cram stated that the proposed boundary was an impossible line, inasmuch as the head of the Montreal river was more than fifty miles from the lake in which it was supposed to originate;§ and suggested running a straight line to connect the two rivers.|| The Menominee and its largest branch, the Brule, the Captain said, constituted a good natural boundary; but as there were one hundred islands in the rivers, some of them of considerable extent, it would be necessary to specify to which State they belonged.¶

Wisconsin people had all along felt, as Michigan people had before them,\*\* that if they had been fully represented in Congress at the time the boundaries were described the Territory would not have been so small.††

\* Michigan Senate Journal, 1841, pp. 88-9, 90, 92, 101. House Journal, pp. 129, 130. Senate Documents, XXVith Congress, 2nd Session, Vol. IV, p. 186.

† Statutes at Large, Vol. V, p. 435.

‡ Senate Documents, No. 170, XXVIIth Congress, 2nd Session, Vol. III.

§ Senate Documents, No. 170, XXVIIth Congress, 2nd Session, Vol. III, p. 4, 6. Senate Documents, XXVith Congress, 2nd Session, Vol. IV, p. 10-11.

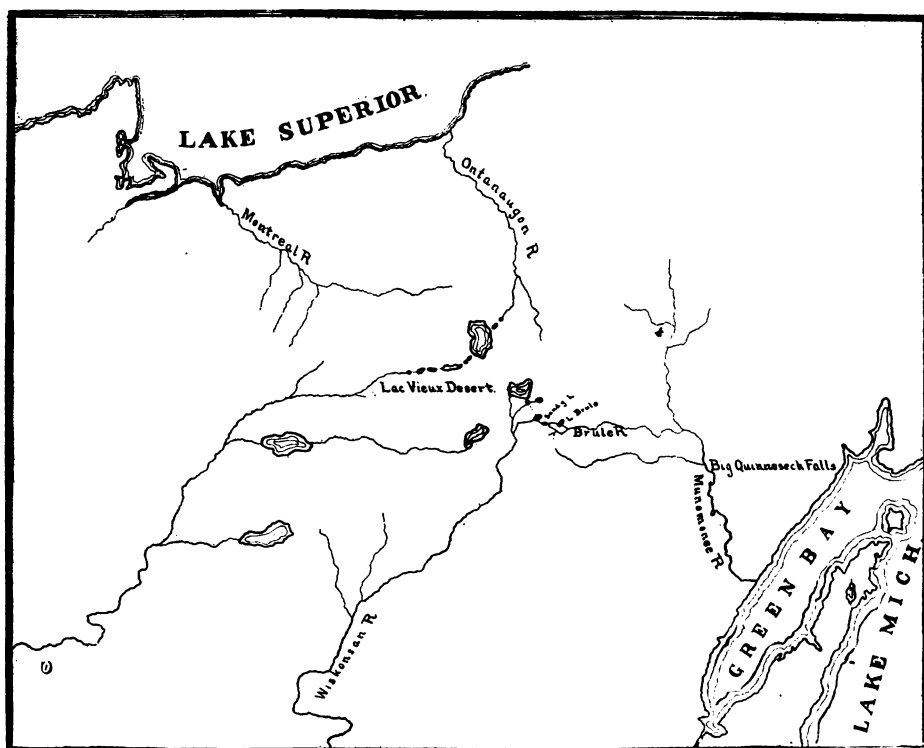
|| Senate Documents, No. 170, XXVIIth Congress, 2nd Session, Vol. III, p. 4.

¶ Ibid, page 6, maps.

\*\* Above pt. I.

†† Thwaites, in "Wisconsin Historical Collection," Vol. XI, p. 462. Executive Documents, No. 147, XXXIth Congress, 2nd Session, Vol. III.





"Corrected Map of the Country along the Proposed Boundary Between Michigan and Wisconsin  
To accompany the Report of Capt. T. J. Cram, December, 1840."  
Senate Documents, No. 151, XXVIth Cong., 2d Sess., Vol. IV.



Boundary line between Michigan and Wisconsin.

Now that the line designated as the eastern boundary line was found to be an impossible one, they proposed to secure all the territory which they felt should properly belong to them. Accordingly the Legislative Council sent a message to Congress protesting against any other eastern boundary "than that set forth by the Legislature of Michigan, in an act of that body of the twenty-sixth of January, 1836, to wit: 'a line drawn through the middle of Lake Michigan, to its northern extremity.'" \* The protest was duly received by Congress but was buried in the committee.† Such indifference, however, only served to arouse all the latent feeling of State rights within the ardent westerners. State sovereignty in all its phases was discussed and announced.‡ Calmer councils finally prevailed, but not until demand was made that Congress should give Wisconsin some recompense for the country which was rightfully hers. Michigan, the memorial said, could not be expected to yield a tract which had been given her so long before, but Congress could and should pay Wisconsin for the country thus taken from her.§ This memorial was also lost in the committee room,|| and Congress quietly passed an act to enable the

1846 people of Wisconsin to form a State government, describing the eastern boundary of the new State just as the western boundary of Michigan had been described ten years before, except that the line was made a possible one according to the suggestion of Captain Cram.¶ At the proposal of a Wisconsin man it was

\* Executive Documents, No. 147, XXVIIth Congress, 2nd Session, Vol. III.

† House Journal, XXVIIth Congress, 2nd Session, pp. 556, 841.

‡ Thwaites, p. 481-483. Sanford, "State Sovereignty in Wisconsin," published by American Historical Association, 1891.

§ Thwaites, p. 483.

|| House Journal, XXVIIIth Congress, 1st Session, pp. 483, 740.

¶ Statutes at Large, Vol. IX, p. 57. Senate Documents, XXVIth Congress, 2nd Session, Vol. IV, p. 151. House Journal, XXIXth Congress, 1st Session, p. 931.

also determined to take Cram's advice and divide the islands in the Menominee and Brule rivers between the two States. Michigan was given those above while Wisconsin was given those below Quinnesec Falls.\* At the same time an appropriation was made for marking the line which was to run between the sources of the Brule and Montreal Rivers.† The task of making the survey was performed by William A. Burt, under the direction of Lucius Lyon.‡

Inasmuch as the eastern line prescribed for the new State did not correspond exactly with the impracticable one defined in the act admitting Michigan, Congress saw fit to avoid any possible dispute by providing that the boundary proposed in the enabling act for Wisconsin should not be binding upon Congress unless ratified by Michigan before June 1848.§ This assent seems not to have been formally given, but Congress proceeded as if it had, and in May 1848 declared Wisconsin  
1848 a State in the Union.|| The people of Wisconsin quietly accepted the conditions of admission as if they had never proclaimed their inviolable right to their "ancient boundaries."¶

When the constitution of Michigan was revised in  
1850 it was deemed wise to describe the line  
1850 dividing the State from Wisconsin even more minutely than had the Wisconsin enabling act,\*\* but this has not prevented a boundary dispute. In

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\* Statutes at Large, Vol. IX, p. 57. Thwaites, p. 485.

† Statutes at Large, Vol. IX, p. 97.

‡ Report of Burt to Lyon, Nov. 20, 1847; Archives, Land Office at Lansing.

§ Statutes at Large, Vol. IX, p. 57.

|| Ibid, pp. 179, 233.

¶ House Documents, No. 49, XXIXth Congress, 2nd Session, Vol. III.

\*\* Constitution of Michigan, 1860, Article I. Map of boundary in Senate Documents, XXIIIrd Congress, 1st Session, (3a).

the winter of 1895 there was a proposal to build a new bridge between Marinette in Wisconsin and Menominee in Michigan. The expense of building and repairing an old bridge connecting the two towns had been equally divided between them, but when the new bridge was proposed, the Menominee people objected to bearing so large a share of the expense. They said the line dividing the States ran nearer the Michigan shore, consequently the Wisconsin people had the longer part of the bridge to build and should be taxed accordingly. The main channel of the Menominee river, upon which the disputing towns are built, runs nearly in the center of the stream. The main channel is described as the boundary line in the enabling act of Wisconsin as well as in the Constitution of Michigan. But the enabling act for Wisconsin gives that State all the islands in this part of the river and the Menominee people say, therefore, that the dividing line here runs, not through the main channel, but to the east of the islands.\* The Government has never completed the survey of the Menominee river. Neither has the question been considered by the courts. Until such a survey is made, or the courts render a decision, therefore, we shall not know precisely what is the western boundary of Michigan.

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\* Milwaukee Sentinel, January 21, 1895.

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THE INTERNATIONAL BOUNDARIES  
OF  
MICHIGAN.

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A Thesis Presented for the Degree of M. L. at the University of Michigan,  
June, 1895,

BY  
ANNAH MAY SOULE.

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[Reprint from Michigan Pioneer and Historical Collections, Vol. 26.]

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# THE INTERNATIONAL BOUNDARY LINE OF MICHIGAN.

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BY ANNAH MAY SOULE.

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## INTERNATIONAL BOUNDARY LINE OF MICHIGAN.

Michigan  
under the  
French.

The French, following in the wake of their intrepid leaders, Joliet and Marquette, were the first Europeans to explore and so to claim the region of which Michigan now forms a part.<sup>1</sup> In 1613 the name "New France"<sup>2</sup> was given to the region with indefinite boundaries, but probably extending from the Ohio river to the north of the Great Lakes and from the Atlantic west of the same lakes.<sup>3</sup> In those days exact boundaries were impossible in the little known west, nor were they needed while the country was still only a hunting and fishing ground.<sup>4</sup> For a hundred years after New France was named, nothing was done by France or England to define the boundaries of their North American possessions. In 1713, when the Treaty of Utrecht was drawn up, provision was made for a commission to settle the boundary of the Hudson Bay Company and "in like manner, the boundaries between the other British and French colonies in those parts."<sup>5</sup>

These commissioners are supposed to have suggested the 49° parallel as a dividing line between the western possessions of the two countries,<sup>6</sup> but Mr. J. C. Bancroft Davis says there is no evidence in either French or English archives of such a commission being appointed.<sup>7</sup> It is, however, of little consequence whether the commissioners were appointed or not. Certainly nothing was done to establish a dividing line between French and English territory. Nor was the Commission, which we know was appointed according to a provision of the Treaty of Aix le Chapelle, any more successful.<sup>8</sup> This Commission worked for three years to establish a line of division but, as France claimed "All countries watered by streams falling into the St. Lawrence, the Great Lakes and the Mississippi;" and England's claim would have reduced the French possessions "to the patch on the American map now represented by the province of Quebec, or rather by a part of it,"<sup>9</sup> their labors were in vain.

<sup>1</sup> Winsor, "Narrative and Critical History of America," Vol. IV, Chap. V.

<sup>2</sup> Jeffery's "French Dominions in North and South America," p. 99.

<sup>3</sup> Hart, "Epoch Maps," Nos. 2 and 4. Winsor, "Narrative and Critical History of America," Vol. IV, pp. 208, 228, 258-259; Vol. V, p. 84. Winsor, "From Cartier to Frontenac," gives a series of maps illustrating the growth of knowledge about these regions.

<sup>4</sup> Mills, "Report on the Boundaries of Ontario," p. 229.

<sup>5</sup> Treaty of Utrecht, article X, in Jenkinson's "Collection of Treaties," Vol. II, p. 34.

<sup>6</sup> State Papers, "Foreign Relations," Vol. III, p. 97.

<sup>7</sup> "Treaties and Conventions," p. 1324.

<sup>8</sup> Treaty, article IX. Mills, "Report on the Boundaries of Ontario," pp. 95, 109, 119. Annual Register 1761, p. 254.

<sup>9</sup> Parkman, "Montcalm and Wolfe," Vol. I, pp. 124-126.

But the boundary question grew more important day by day as the colonists of both countries pushed their way farther inland. Finally the settlement could be made only by force of arms; the French and Indian War began for the possession of the Valley of the Ohio, but it closed in 1763 by giving to England all the territory east of the Mississippi,<sup>1</sup> except a bit of land at the mouth of that river—the region of the Great Lakes a part of the British possessions.

Michigan  
under the  
British.

The government of Great Britain seems not to have cared much for this western region, however, now that France could no longer lay claim to it, and its fur trade was secured to herself.<sup>2</sup> Not only was no provision made for the government of the western country but it was recognized as Indian territory and settlement therein was forbidden by the proclamation which established in the newly acquired territory, "four distinct and separate governments, styled and called by the names of Quebec, East Florida, West Florida and Granada."<sup>3</sup> But the region was too well known, too largely inhabited to be left to the Indians. Soon after the fall of Montreal, Rogers had planted the British standard at Detroit<sup>4</sup> and other adventurers soon penetrated the forbidden ground. Pennsylvania was too near and Virginia had already pushed her explorations too far to be kept back by a simple proclamation;<sup>5</sup> the people of these and the other colonies made treaties with the Indians and formed companies for the settlement of lands so obtained, and even ventured to make settlements beyond their treaty bounds. Again and again, these adventurous settlers petitioned the Lords of Trade to extend the limits of Quebec so as to give to them some benefits of a system of government. Nor were they alone in these petitions. They were joined by the French who, when it was still New France, had settled along the Mississippi in the Illinois country and, by the proclamation of the King, had been cut off from all protection of an organized government.<sup>6</sup> These petitions were finally granted, the British government consented to extend the Province of Quebec to the Mississippi;<sup>7</sup> Michigan was again included within the borders of an organized province. For ten years the British government had striven to keep a large portion of this country as Indian territory, but at last the utter futility of these efforts was recognized and the famous "Quebec Act" of 1774 admitted most of this Indian territory into the Province of Quebec.<sup>8</sup>

British  
territory, 1763.

<sup>1</sup> "Treaty of Paris," article IV, Annual Register, 1758, pp. 1-2; 1762, pp. 55-60, 235, etc. Hart, "Epoch Maps," No. 5. Map of "British Dominions in North America," 1763, Annual Register, 1763.

<sup>2</sup> Hinsdale, "The Old Northwest," pp. 122-124.

<sup>3</sup> "Calendar of Home Office," 1760-1765, p. 304. Annual Register, 1763, pp. 18, 20, 209. Winsor, "Narrative and Critical History of America," Vol. VI, p. 687. Mills, Map No. 5.

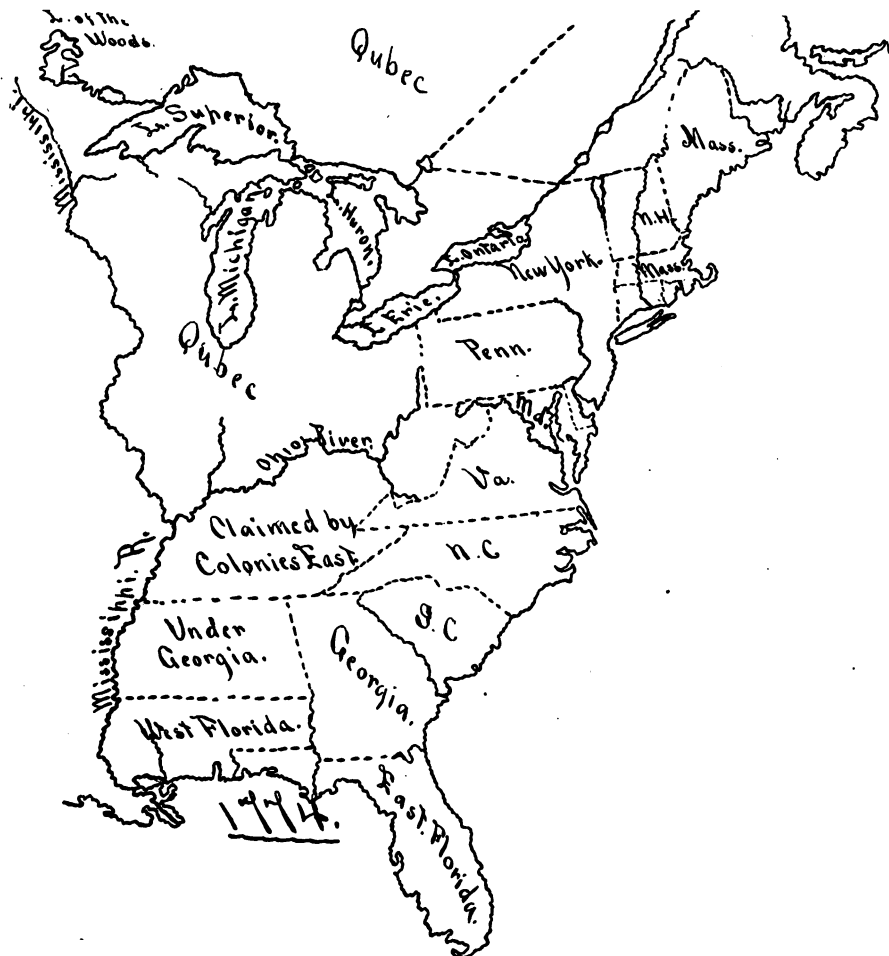
<sup>4</sup> Winsor, "Narrative and Critical History of America," Vol. VI, Chap. IX. Campbell, "History of Michigan," p. 109.

<sup>5</sup> Mills, p. 20. Winsor, Vol. VI, Chap. IX.

<sup>6</sup> Mills, pp. 32, 64.

<sup>7</sup> *Ibid.*, pp. 23, 41, 56, 59, 187. Hart, "Epoch Maps," No. 5. Annual Register 1774, pp. 239-240.

<sup>8</sup> Notes 5, 6 and 7 this page.







Michigan  
under the  
United States,  
1783.

But this tardy Act failed of its purpose. The settlers of the west as well as of the east revolted from its obnoxious conditions. It became one of the immediate causes of the Revolutionary War<sup>1</sup> which resulted in converting the colonies into "These United States" with boundaries limited only by the Mississippi on the west, Florida on the south and the St. Lawrence and the middle of the Great Lakes on the north.<sup>2</sup>

Struggle for  
the territory,  
1779-1783.

It was not without a struggle that this vast territory was secured for this new Nation. In demanding it our ministers had to meet not only the natural opposition of England, but the jealous resistance of France and Spain combined. To us of Michigan this struggle for territory, carried on so quietly at Paris for two years, is as important as the Revolutionary War itself. For, had the division of territory been settled according to the desire of France and Spain, this would have been Indian or Canadian territory; had it been divided as England wished, the result would have been the same; had it been divided according to the first proposition of Congress, some of us would now be subjects of Her Majesty, and not citizens of the United States.

Such being its importance then, it is interesting to us to study somewhat at length the details of this struggle for territory, though the study must, at best, be unsatisfactory in its results, as there is so little record of the discussions which took place over the boundary line during the negotiations of 1782-3. Indeed, when Henry Clay, as Secretary of State, was asked to place before the House of Representatives the documents relating to the negotiations on the boundary question, he reported that there appeared to have been no written discussion of the matter.<sup>3</sup> Since 1828, however, the publication of the works of Franklin, Adams, and Jay, the researches of Bancroft among the French archives, and still later, the purchase of copies of the "Peace Manuscripts" by our Government, have shown that there is some written evidence left from which we may gather a few ideas of the nature and effects of the discussions on boundaries, and some knowledge of the limits to which the United States might have been confined had she sent less wise and patriotic men or less able diplomats to make the Treaty of Peace.

First then as to the position of France and Spain in this contest for territory. France could, of course, assert no claim to territory; but she did claim, as Spain did, that the country of the Great Lakes was either a dependency of Canada or the property of the Indians. France and Spain were also agreed that under no circumstances could the United States lay any claim whatever to the country lying between the Alle-

<sup>1</sup> "Declaration of Independence."

<sup>2</sup> "Treaty," 1783, article II.

<sup>3</sup> State Papers, "Foreign Relations," Vol. VI, p. 866.

ghanies and the Mississippi.<sup>1</sup> But the French minister said that region belonged to "free and independent nations of Indians"<sup>2</sup> while the Spanish minister asserted that the country belonged to Spain by right of her "Conquest of West Florida and certain posts on the Mississippi and Illinois."<sup>3</sup> This difference of opinion regarding the extent of Spanish claims was not insurmountable, however, for in his memoir upon the subject Count de Rayneval adds, "But the future may bring forth new circumstances, and this reflection leads one to suppose, that it would be of use that the court of Madrid and the United States should make an eventual arrangement,"<sup>4</sup> and then he proposed a "conciliatory line" which would confine the United States to the east of the Alleghanies to be sure, but would make that Government and Spain joint guardians of an Indian territory which was to embrace the region between Florida and the Ohio river.<sup>5</sup> Spain must have agreed to this line for the French and Spanish seem to have worked together harmoniously from this time. France apparently did not wait until the result of the war became evident before she thought of checking the ambition of her ally. In 1778 Vergennes writes to Count Montmorin:

Why France and Spain wished to limit the United States. "We do not wish—far from it—that the new Republic should remain the only mistress of all that immense continent.....it is important that the English should remain masters of Canada and Nova Scotia; they will keep alive the jealousy of this nation which might otherwise turn somewhere else, and will make it feel the need of sureties, allies and protectors."

And again he writes:

"But you may assure him (the minister of the King of Spain) that it is not on our part he will meet with difficulties with regard to the preservation and guaranteeing of Canada and Nova Scotia to England.

"If these two vast provinces remain in England's power, and Spain gets back the part of Western Florida which suits her, a restraint will be put on the Americans greater than is needful to prevent them from becoming enterprising and troublesome neighbors."<sup>6</sup>

The French were wiser than the English and knew full well that, to retain the "back country" for the Indians, other than legal bounds must be put upon the new Republic. The reasons then, for the desire on the part of France to limit the United States, were, 1st, the fear of troublesome neighbors; 2d, the wish to conciliate Spain whose territories she

<sup>1</sup> "Memoir of Rayneval." Spark's "Diplomatic Correspondence," Vol. VIII, pp. 150, 156. Winsor, Vol. VII, pp. 126-128. Letter of Vergennes to Luzerne, quoted by Jay, "Address," p. 157. Lecky, "History of England in the 18th Century," Vol. IV, p. 276.

<sup>2</sup> Spark's "Diplomatic Correspondence," Vol. VIII, p. 158.

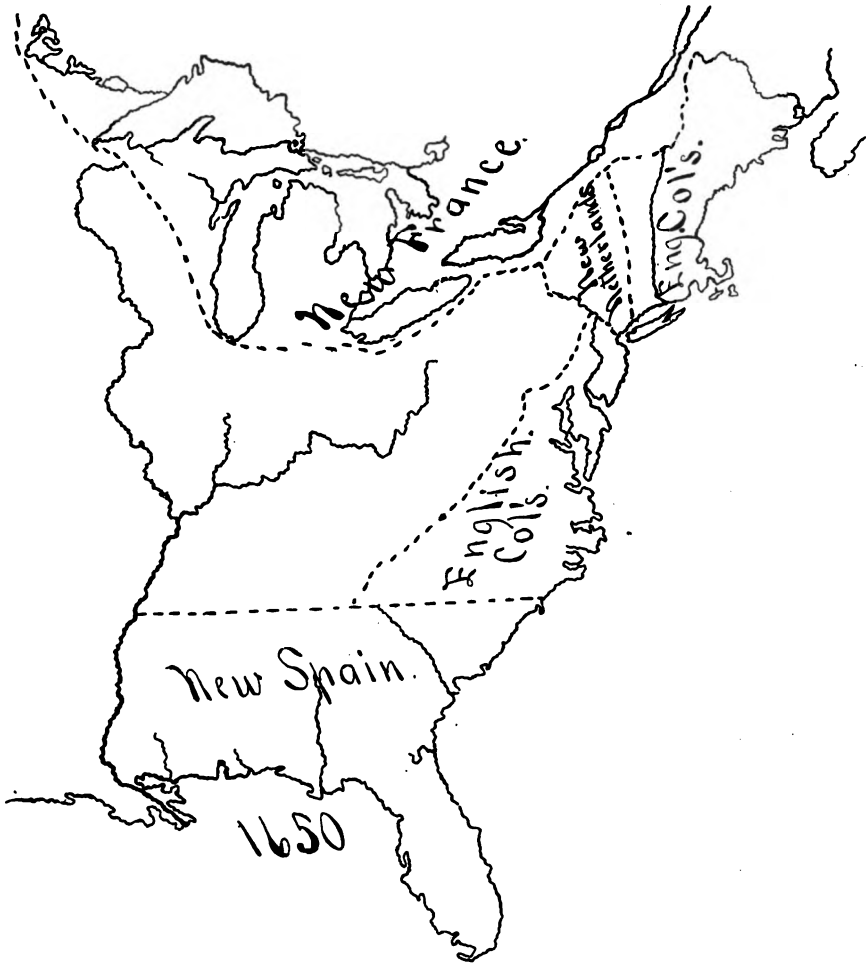
<sup>3</sup> Spark's "Diplomatic Correspondence," Vol. VIII, p. 150, *et seq.*

<sup>4</sup> Spark's "Diplomatic Correspondence," Vol. VIII, p. 159.

<sup>5</sup> Map, Hinsdale's "Old Northwest," p. 180. "Life of Shelburne," Vol. III, p. 170. Winsor, "Narrative and Critical History of America," Vol. VII, p. 143. American State Papers, "Foreign Relations," Vol. I, p. 572.

<sup>6</sup> Jay's "Address," pp. 1-2, 158. Appendix C.





was bound by the "Family Compact" to maintain;<sup>1</sup> 3rd, France was exceedingly anxious about her right to the fisheries and hoped to get the good will of England in the settlement of that matter by standing with her on the boundary question.<sup>2</sup>

Spain, on her side, taking advantage of the fact that her enemies were otherwise occupied, had captured some posts, taken formal possession of the country about St. Louis,<sup>3</sup> and doubtless hoped to regain something of her old power and prestige by conquest as well as by treaty. There is no doubt, however, that Spain would have stood ready to limit the boundary of the United States under any circumstances, for she feared the example of a successful revolt of a colony from the mother country.

To secure the desired limitation of the territory of the new republic, the ministers of France and Spain seem to have first tried their powers of persuasion and instruction upon our statesmen in Congress,<sup>4</sup> but they did not neglect our statesmen who were abroad.<sup>5</sup> The argument chiefly used was that the United States had absolutely no claim to anything west of "the ancient English establishments."<sup>6</sup> To argument was added the threat "That in case we should not agree to divide with Spain \* \* \* \* \* then their court (France) would aid Spain in negotiating with Britain for the territory she wanted, and would agree that the residue should remain to Britain."<sup>7</sup>

Before the French diplomats had given up their efforts to secure the promise of the United States that she would never push her boundaries beyond the proposed line, they attempted to form an alliance with the English which would secure such an extension of the British and Spanish claims as would cut off all possibility of our territorial growth.<sup>8</sup> At first these appeals were not in vain. Lord North once even offered to let Canada go to France, on condition that she would make a separate treaty.<sup>9</sup> But Lord Shelburne, to whom as prime minister the peace negotiations finally fell, was a man of broader views, as we shall see later, and the eagerness of France and Spain to secure territory in North America made him only the more ready to yield to the claims of the United States.<sup>10</sup> Shelburne knew that regardless of the old colonial charters the western

<sup>1</sup> Wenkii "Codex. Jus. Gen.," p. 278. John Adams' "Life and Works," Vol. VII, pp. 626-631, 650-651. Winsor, "Narrative and Critical History of America," Vol. VII, p. 148. Jay's "Correspondence and Public Papers," Vol. II, p. 388. Wharton, "International Law," III, appendix, pp. 909, 910.

<sup>2</sup> Madison's "Works," Vol. III, p. 467.

<sup>3</sup> Winsor, "Narrative and Critical History of America," Vol. VI, pp. 72-73. Spark's "Diplomatic Correspondence," Vol. VIII, pp. 77-78. Adams' "Life and Works," Vol. I, p. 370.

<sup>4</sup> Adams' "Life and Works," Vol. III, p. 357. Bancroft's "History of the United States," Vol. X, p. 216, *et seq.*

<sup>5</sup> Letters and Despatches of Vergennes to Luzerne, and Count de Montmorin quoted in Jay's "Address," appendix C. John Adams' "Life and Works," Vol. I, pp. 357 *et seq.*, 370; Vol. III, pp. 303, 357. Jay's "Correspondence and Public Papers," Vol. II, p. 388, *et seq.* Franklin's "Life and Writings," Vol. IX, p. 204, *et seq.* Wharton's "International Law," appendix, Vol. III, 210 *et seq.* Letter of Oswald to Shelburne in Hale's "Franklin in France," Vol. II, p. 143.

<sup>6</sup> Spark's "Diplomatic Correspondence," Vol. VIII, p. 158. Jay's "Correspondence and Public Papers," Vol. II, p. 393. Wharton's "International Law," appendix, Vol. III, p. 909, *et seq.*

<sup>7</sup> Jay's "Correspondence and Public Papers," Vol. II, p. 399.

<sup>8</sup> John Adams' "Life and Works," Vol. I, p. 366, *et seq.*, Vol. III, pp. 303, *et seq.*, 321. "Life of Shelburne," Vol. III, pp. 258-259, 263, *et seq.*

<sup>9</sup> Franklin's "Life and Writings," Vol. IX, p. 210. John Adams' "Life and Works," Vol. I, p. 357.

<sup>10</sup> Wharton's "International Law," Vol. III, appendix, 905. "Life of Shelburne," Vol. III, p. 267.

lands belonged to the revolted colonies by right of exploration, conquest and settlement,<sup>1</sup> and could be held against them, if at all, only at an immense expense.<sup>2</sup> Lord Shelburne, too, had a knowledge of and love for his countrymen. He was enough of a political economist to realize that it would be far better for England to have the Mississippi in the hands of the United States than in those of Spain.<sup>3</sup> Knowing thus that both the honor and interest of England lay in standing by the United States rather than by France and Spain in the division of the west, the British refused to heed the wishes of her old time rival on the new continent. They finally agreed to a boundary line which in the eyes of the French "surpassed all expectation"<sup>4</sup> and gave to the United States "more than I could have believed possible," as Vergennes wrote to his secretary Rayneval.<sup>5</sup>

Up to almost the last moment England seems to have asserted her claims "to the lands between the Mississippi and the western boundary of the States, and to have brought forward the French boundary of Canada, which was more extensive at some points (i. e., between the Mississippi and the mountains), than that of the Proclamation of 1763."<sup>6</sup> But the claim seems to have been made more for the purpose of securing other concessions than for the possession of the territory itself,<sup>7</sup> or from a feeling of the justice of their claims. Indeed the French seem to have been much more interested in the legal aspect of the question than the English. Shelburne, writing to Oswald instructions with regard to the renewed negotiations in which Strachey was to aid him, says with regard to the "boundaries and back lands:" "Independently of all this nonsense of charters, I mean when they talk of extending as far as the sun sets, the soil is and has always been acknowledged to be the King's."<sup>8</sup> In fact, whether from lack of confidence in their claims or because of a greater interest in other matters, the British seem not to have cared for much discussion of the boundaries. Whatever may have been the reason the subject of the boundaries received much less attention from both British<sup>9</sup> and American commissioners than did the subject of the fate of the loyalists, the payment of the debts of British creditors, or the division of the fisheries.<sup>10</sup> There seems to have been a feeling on both sides either that the boundaries were of comparatively little importance or could be easily adjusted when

<sup>1</sup> State Papers, "Foreign Relations," Vol. VI, p. 868. C. I. Walker in "Michigan Pioneer Collections," Vol. III, p. 12.

<sup>2</sup> *Ibid.*, and Kingsford's "History of Canada," Vol. VII, p. 149. "Debates in Parliament." "Life of Shelburne," Vol. III, p. 347, *et seq.*

<sup>3</sup> "Life of Shelburne," Vol. III, pp. 166, *et seq.*, 348.

<sup>4</sup> Luzerne to Vergennes, Winsor, Vol. VII, p. 158.

<sup>5</sup> Jay's "Address," p. 107.

<sup>6</sup> Instructions to Strachey, "Life of Shelburne," Vol. III, p. 281.

<sup>7</sup> *Ibid.*, p. 281-5.

<sup>8</sup> "Life of Shelburne," Vol. III, p. 284. Rayneval's report on his conference with English ministers, quoted by Jay in his "Address," p. 159.

<sup>9</sup> Of course they were discussed and urged, but apparently not so earnestly as by the French. Spark's "Diplomatic Correspondence," Vol. X, p. 188.

<sup>10</sup> Jay's "Address," p. 68.

other matters were out of the way. Franklin writes, in his journal, May 5, 1782, "Mr. Oswald repeated to me his opinion that the affair of Canada would be settled to our satisfaction, and his wish that it might not be mentioned till towards the end of the treaty."<sup>1</sup> Oswald writes to Townsend, in August of the same year, "The Doctor (referring to Franklin) at last touched upon Canada \* \* \* , and said there could be no peace and quiet in the neighborhood while that country continued under a different government, as it touched their states in so great a stretch of frontier. I told him I was sensible of that inconvenience, but having no orders, the consideration of that matter might possibly be taken up at some future time."<sup>2</sup>

That "future time" seems to have come on the following October when negotiations were renewed at Paris.<sup>3</sup> Some time before this Franklin had drawn up a "plan of pacification" the third article of which provided for "A confinement of the boundaries of Canada at least to what they were before the last act of Parliament, \* \* \* if not to a still more contracted state."<sup>4</sup> This plan Oswald had sent to the ministry and he now returned to the negotiations authorized "to go to the full extent" of Franklin's proposals, on condition that the third article "be understood and expressed to be confined to the limits of Canada as before the act of 1774."<sup>5</sup> But the effort to come to the required understanding soon caused the commissioners trouble from which Jay extricated them by proposing another<sup>6</sup> boundary line, which seems to have differed from Franklin's chiefly in the eastern regions. Oswald accepted it. But when the draft of this treaty was presented to the ministry, matters in England were looking up. Its terms were, therefore, considered too liberal to the Americans, and the British ministry sent Strachey over to Paris to fortify Oswald.<sup>7</sup> Mr. Oswald, as we have seen,<sup>8</sup> was instructed to assert claims to the western lands and the ancient boundaries of Canada, but "he was to urge their claims, \* \* \* not indeed for their own sake, but in order to gain some compensation for the refugees, either by a direct cession of territory in their favor, or by engaging \* \* \* some portion of what the back lands might produce when sold \* \* \* ; or by the grant of a favorable boundary of Nova Scotia," etc. But "It is understood," the instructions said, "that if nothing of this can be obtained, \* \* \* it may be left to the commissioners to settle."<sup>9</sup>

That the British ministry had little hope of overcoming the territorial demands of the American ministers, is evident from the instructions just

<sup>1</sup> Bigelow's "Life of Franklin," Vol. III, p. 96.

<sup>2</sup> Spark's "Franklin," Vol. IX, p. 388.

<sup>3</sup> "Life of Shelburne," Vol. III, p. 269, *et seq.*

<sup>4</sup> "Life of Shelburne," Vol. III, pp. 243-4. Wharton's "International Law," Vol. III, appendix, p. 944.

<sup>5</sup> Wharton's "International Law," Vol. III, appendix, 944. "Life of Shelburne," Vol. III, pp. 243-4.

<sup>6</sup> "Life of Shelburne," Vol. III, p. 271, map 294.

<sup>7</sup> "Life of Shelburne," Vol. III, p. 281.

<sup>8</sup> Page 12.

<sup>9</sup> Adams' "Diary, Life and Works," Vol. III, *in passim*, 1782. Instructions to Strachey as given in Life of Shelburne," Vol. III, p. 282.

Why England yielded so much.

quoted. It turned out as they expected, for the commissioners finally yielded to the persistent demands of our representatives.<sup>1</sup> There are several reasons why Shelburne and his colleagues should have yielded so much territory with so little apparent struggle.

1. They knew the British had no real claim upon it.<sup>2</sup>
2. Experience had shown that it could be held, if at all, only at a tremendous expense.<sup>3</sup>
3. They preferred the United States rather than Spain for a neighbor.<sup>4</sup>
4. They had the hope of building up a strong friendly commercial nation in America.<sup>5</sup>
5. Some of them did not appreciate the value of what they were yielding.<sup>6</sup>
6. They were anxious to hasten the negotiations in order that the completed treaty might be presented at the approaching meeting of Parliament, for the national expectation of peace must be satisfied, if the ministry was to be sustained.<sup>7</sup>

In Parliament, and throughout the country, this portion of the treaty was not so badly received as we might suppose it would have been.<sup>8</sup> All did not agree with Secretary Townsend that the ceded territory was "a heap of rubbish,"<sup>9</sup> but many felt with him that "the attempting to enforce" even the line of the 1774 Act "would have irritated America and revived that spirit of resentment, which it is now our business to quiet," and that it was better "to fix a new boundary, fair, just, liberal and such as the Americans themselves approved."<sup>10</sup> The Annual Register, commenting on the terms of peace said, "To prevent all further disputes several imaginary lines were drawn which intersect immense countries, lakes and rivers"<sup>11</sup> and that seems to have been the general feeling. Jay wrote to Livingston that the English were more interested in an extended commerce than in "the possession of a vast tract of wilderness."<sup>12</sup> Apparently he was right. In the debates in Parliament it was not so much the *fact* of yielding the territory, but the *right* of the Crown to cede national territory which was questioned.<sup>13</sup> It

<sup>1</sup> J. Adams' "Life and Works," Vol. III, p. 327. "Life of Shelburne," Chap. VI.

<sup>2</sup> *Ante.*, pp. 11 and 12.

<sup>3</sup> Jay's "Correspondence and Public Papers," Vol. II, p. 406, *et seq.* "Life of Shelburne," Vol. III, Chap. VI.

<sup>4</sup> *Ante.*, p. 12. Schlosser, "History of the 18th Century," Vol. V, p. 297. Winsor, Vol. VII, pp. 148, 150, 160, *et seq.*

<sup>5</sup> Hansard's "Debates," XXIII, p. 465, *et seq.* "Life of Shelburne," Vol. III, p. 248. Jay's "Correspondence and Public Papers," Vol. II, p. 406. Wharton's "International Law," Vol. III, appendix, 914-15. Spark's "Diplomatic Correspondence," Vol. X, p. 188, *et seq.* Lecky, "England in the 18th Century," Vol. IV, p. 273. *Ante.*, p. 12.

<sup>6</sup> Henry's "Travels," pp. 234-5. Bourinot, "Canada and the United States," pp. 8-9. Kingsford, "History of Canada," Vol. VII, pp. 151, 175.

<sup>7</sup> "Life of Shelburne," Vol. III, Chap. VII. Wharton's "International Law," Vol. III, p. 950. J. Adams' "Life and Works," Vol. III, p. 327.

<sup>8</sup> Lecky, "History of England in the 18th Century," Vol. IV, pp. 235, 239.

<sup>9</sup> Hansard's "Debates," XXIII, p. 467, *et seq.*

<sup>10</sup> Hansard's "Debates," XXIII, p. 467, *et seq.*

<sup>11</sup> "Annual Register," 1783, p. 134.

<sup>12</sup> Jay's "Correspondence and Public Papers," Vol. II, p. 406.

<sup>13</sup> Hansard's "Debates," XXIII. "Life of Shelburne," Vol. III, pp. 346-7, 355.



was the fur trade which all considered. Few thought of the intrinsic value of the land; "the fur trade was divided with the Americans," "commerce would be insecure with the American line within twenty-four miles of Montreal,"<sup>1</sup> were the chief complaints in Parliament and out. The loss to England of one-half of North America was a bagatelle compared with the loss of the four expensive posts which the ministry had ceded to the United States.<sup>2</sup> Among the Canadians this division of territory was generally bewailed, but in vain, of course, since the home government approved of the treaty.<sup>3</sup>

When, in 1779, Congress decided to send commissioners to consider the subject of peace with Great Britain, their first instructions, regarding boundaries, was to demand a line from "the south end of Lake Nipissing; and thence straight to the source of the river Mississippi; west by a line to be drawn along the middle of the river Mississippi" from its source to the 31st parallel.<sup>4</sup> A few days later wiser council seems to have prevailed and new instructions were given providing that

"If the line to be drawn from the mouth of the Lake Nipissing to the head of the Mississippi cannot be obtained without continuing the war for that purpose, you are hereby empowered to agree to some other line between that point and the river Mississippi, provided the same shall in no part thereof be to the southward of latitude forty-five degrees north."<sup>5</sup>

The Continental Congress was then willing to give up to England the country of which the upper peninsula of Michigan and part of Wisconsin and Minnesota now form a part. In 1781, fortunately, new instructions were given which read:

"As to disputed boundaries and other particulars, we refer you to your former instructions of 14 August, 1779, and 18 October, 1780, from which you will perceive the desires and expectations of Congress, but we think it unsafe at this distance to tie you up by absolute and peremptory directions upon any other subject than the two essential articles above mentioned."<sup>6</sup>

The two "essential articles" were independence and validity of treaties. Virginia objected seriously to changing the instructions as to boundaries for she was determined to secure the Ohio valley at any cost,<sup>7</sup> but the result showed that, in this case, the majority were right.

<sup>1</sup> Hansard's "Debates," XXIII, pp. 434, 454, 378-82, 465, *et seq.*  
<sup>2</sup> Hansard's "Debates," XXIII, pp. 434, 454, 378-82, 465, *et seq.* "Debates on the Peace," in Lords. Hansard, XXIII, 373-435. Commons, 435-498.

<sup>3</sup> Bourinot, "Canada and the United States," pp. 8, 9. Kingsford, "History of Canada," Vol. VII, pp. 113-185, *et seq.* It was for this reason, largely, that the Canadian authorities held the western posts.

<sup>4</sup> In giving boundary lines I give only the portions in which we are especially interested. "Secret Journals of Congress," Vol. II, pp. 226, 227. American State Papers "Foreign Relations," Vol. VI, pp. 866, 867.

<sup>5</sup> *Ibid.*  
<sup>6</sup> "Secret Journals of Congress," Vol. II, pp. 426-435. American State Papers "Foreign Relations," Vol. VI, p. 867.

<sup>7</sup> "Secret Journals of Congress," Vol. II, p. 426-435. Wharton's "Diplomatic Correspondence," Vol. IV, pp. 474, 477.

Our commissioners for peace, were then free to agree to such a partition of territory as seemed to them wise; so to Franklin Adams and Jay alone belongs the shame of losing, or the glory of winning territory for the United States. There has been a tendency to give all this credit to Franklin, who said the time would come when the American people would consider the part he took in securing the vast mineral region to them, the greatest act of his life.<sup>1</sup> Now there can be no doubt that Franklin was determined that the United States should have Canada. He had long felt that the country from the St. Lawrence to the Mississippi should be united. He advised taking Canada early in the French and Indian war.<sup>2</sup> At the beginning of the Revolution, he had been one of the commissioners sent by the Colonial Congress to urge Canada to join the other American Colonies against England.<sup>3</sup> From the beginning of the peace negotiations he seemed to have talked continually of England's ceding Canada to the United States.<sup>4</sup> And doubtless it was due to his colleagues that Franklin finally withdrew his demand for all Canada and suggested the line which England had drawn to separate Quebec from Indian territory in 1763.<sup>5</sup> But this is no proof that either Adams or Jay were regardless of the extension of United States territory. Adams had come to the negotiations, especially prepared to stand for an extension of territory on the east<sup>6</sup> while Jay seemed to have had most at heart the navigation of the Mississippi. He too was eager to secure as much territory as could be reasonably hoped for. It was only when he saw the whole negotiation likely to fail that Jay proposed a line a little more favorable to England than Franklin last proposed.<sup>7</sup> That neither Jay nor Adams would have chosen to limit the United States in this way is shown by the following letter which Adams sent with the treaty to Livingston, Secretary of Foreign Affairs:

"The court of Great Britain insists on retaining all territory comprehended within the Province of Quebec, \* \* \* \*; and they claimed not only all the lands in the western country and on the Mississippi, which were not expressly included in our charters and governments, but also such lands within them as remained ungoverned by the King of Great Britain. It would be endless to enumerate all the discussions and arguments on the subject. We knew this court (France) and Spain to be against our claims to the western country, and having no reason to think that lines more favorable could ever have been obtained, we finally agreed to those described in this article."<sup>8</sup>

<sup>1</sup> Wharton's "International Law," Vol. III, appendix, 913.

<sup>2</sup> Spark's "Franklin," Vol. I, pp. 248, 257. Vol. IV, pp. 2-53. "Canada Pamphlet."

<sup>3</sup> Carroll's "Diary," in the Maryland Historical Society Centennial Memorial.

<sup>4</sup> Wharton's "International Law," Vol. III, appendix, 904. Bigelow's "Franklin," Vol. II, p. 467. *Ante.*, pp. 12-13.

<sup>5</sup> "Life of Shelburne," Vol. III, pp. 269-272.

<sup>6</sup> John Adams' "Life and Works," Vol. III, p. 304; Vol. VII, pp. 653-4. Jay's "Correspondence and Public Papers," Vol. III, p. 6.

<sup>7</sup> "Life of Shelburne," Vol. III, p. 271, *et seq.*

<sup>8</sup> Adams' "Life and Works," Vol. VIII, p. 18.

Furthermore there is reason to think that had it not been for Adams and Jay, Franklin would have continued to confide in France and Spain, and we should have had no treaty at all in 1783. If not then when could a treaty have been made and what would have been its terms?<sup>1</sup>

Of course no legal claims could be asserted by the United States Government to the whole of Canada; its cession was urged wholly on the ground of expediency. Franklin said that Basis of  
claims of the  
United States. Canada naturally belonged to the United States, and could develop into a great country only as a member of a great North American Confederacy.<sup>2</sup> Jay urged that Canada should be at least restricted to the boundary of 1763, as it would be impossible for England either to settle or govern a territory which naturally belonged to another; that it would be better for all concerned for the United States extended to the Mississippi on the one side and the old Quebec boundary on the other.<sup>3</sup> To the territory bounded by the lines proposed by Congress there was a legal claim. It was asserted by Congress, and the peace commissioners as well, that the charter rights of the colonies descended to the United States and, consequently, that the lands lying back of the States belonged to them.<sup>4</sup> It was further urged, as to those lands as well as to the lands beyond, that the colonists had explored, conquered and settled the region and so had a right to it.<sup>5</sup>

The territory secured to us was, however, won, doubtless, not because the British were convinced that it belonged to us, but because the ministry saw we were bound to have it, and they preferred peace, the protection of the loyalists, and the satisfaction of British Creditors, to a stretch of wild territory in the interior of the country.<sup>6</sup>

If the territory thus secured to the United States is not so extensive Effect. as Franklin wished for and might have won, it was quite as much as the people of the new Republic expected, and more than the people of other countries thought possible for us to win. One of the French diplomats wrote to another that the northern boundary surpassed all expectations.<sup>7</sup> Vergennes wrote to Rayneval that " \* \* the concessions as regards boundaries, the fisheries and the loyalists, exceed all that I could have believed possible."<sup>8</sup> Mr. Lecky says: "Every-

<sup>1</sup> Wharton's "International Law," Vol. III, pp. 906, 951, 953. Jay's "Address," 1883, pp. 114-116. Rives' "Madison," Vol. I, p. 382. Lyman's "Diplomacy of the United States," p. 180, *et seq.* J. Adams' "Life and Works," Vol. VIII, p. 18. Jay's "Correspondence and Public Papers," Vol. III, p. 56, *et seq.*

<sup>2</sup> Wharton's "International Law," Vol. III, appendix, 914.

<sup>3</sup> Jay's "Correspondence and Public Papers," Vol. II, pp. 406-7.

<sup>4</sup> American State Papers, "Foreign Relations," Vol. VI, p. 868. Jay's "Correspondence and Public Papers," Vol. II, p. 406. Franklin's "Life and Writings," "Spark's," Vol. IX, pp. 130-134. John Adams' "Life and Works," Vol. VII, p. 653. "Secret Journals of Congress," Vol. III, pp. 152-5, 175-200. Jay's "Address," p. 117.

<sup>5</sup> American State Papers, "Foreign Relations," Vol. VI, p. 868. "Secret Journals of Congress," Vol. III, p. 155, *et seq.*

<sup>6</sup> Adams' "Life and Works," Vol. VII, pp. 442, 654. Spark's "Diplomatic Correspondence," Vol. X, p. 129. Winsor's "Narrative and Critical History of America," Vol. VII, p. 185. *Ante.*, pp. 14-15.

<sup>7</sup> Winsor's "Narrative and Critical History of America," Vol. VII, p. 158.

<sup>8</sup> Letter quoted in Jay's "Address," p. 107.

thing the United States could, with any shadow of plausibility demand from England they obtained."<sup>1</sup> In the United States the treaty met with the "warmest approval" of Congress,<sup>2</sup> in spite of the fact that the instruction to consult France in all things<sup>3</sup> had been disregarded. The Secretary of Foreign Affairs, while censuring the commissioners for keeping the treaty secret from France says: "The boundaries are as extensive as we have any right to expect."<sup>4</sup> The people at large were jubilant over the peace; a friend writes to Jay, "The treaty is universally applauded; and the American commissioners who were concerned in making it have rendered themselves very popular by it."<sup>5</sup> While Hamilton writes, "The peace, which exceeds in goodness of its terms the expectations of the most sanguine, does the highest honor to those who made it."<sup>6</sup>

The boundary line secured by this surprising treaty was a compromise between the lines established by England in the famous Proclamations of 1763 and 1774. It was probably proposed by Jay who says that two lines were considered at the final negotiations: one, like that suggested by Congress in 1779, running from Lake Nipissing straight to the Mississippi; the other through the St. Lawrence and the lakes. Of these two lines the British ministers seem to have had their choice, and they chose the one through the lakes. Thus Michigan was saved to the United States because Jay afterwards said, "the waters would form a line which could never be mistaken; and offered great convenience to both parties, the line of the waters was preferred by both."<sup>7</sup> The part of the line in which we are interested is described as running through the middle of Lake Ontario:

"Until it strikes the communication by water between that lake and Lake Erie, through the middle of said lake until it arrives at the water communication between that lake and Lake Huron; thence along the middle of said water communication into the Lake Huron; thence through the middle of said lake to the water communication between that lake and Lake Superior; thence through Lake Superior northward of the isles Royal and Philippeau, to the Long Lake; thence through the middle of said Long Lake, and the water communication between it and the Lake of the Woods to the said Lake of the Woods."<sup>8</sup>

<sup>1</sup> Lecky's "History of England in the 18th Century," Vol. IV, p. 284.

<sup>2</sup> "Secret Journals of Congress," Vol. III, p. 327. Spark's "Diplomatic Correspondence," Vol. X, p. 129. Rives' "Madison," Vol. I, p. 351, *et seq.* Lyman's "Diplomacy of the United States," Vol. I, p. 181, *et seq.*

<sup>3</sup> Spark's "Diplomatic Correspondence," Vol. X, p. 130. "Secret Journals of Congress," Vol. II, p. 435. Jay's "Correspondence and Public Papers," Vol. III, p. 60.

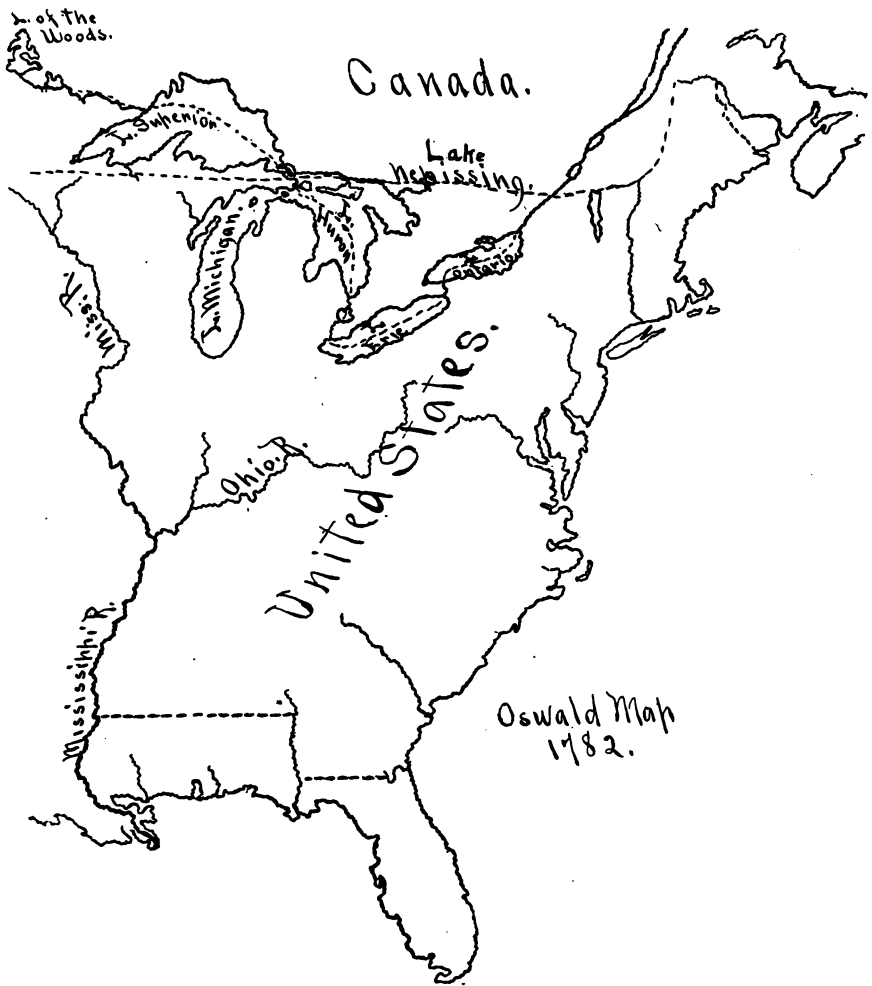
<sup>4</sup> Spark's "Diplomatic Correspondence," Vol. X, p. 129. Lyman's "Diplomacy of the United States," Vol. I, p. 174, *et seq.* Rives' "Madison," Vol. I, p. 351, *et seq.*

<sup>5</sup> Jay's "Correspondence and Public Papers," Vol. III, p. 46.

<sup>6</sup> Jay's "Correspondence and Public Papers," Vol. III, p. 46.

<sup>7</sup> Lecky's "England in the 18th Century," Vol. IV, p. 274. Winsor's Vol. VII, p. 138. Map, "Life of Shelburne," Vol. III, p. 294, also 272, *et seq.* Adams' "Life and Works," Vol. VII, p. 661. "Life of Shelburne," Vol. III, p. 295. American State Papers, "Foreign Relations," Vol. I, p. 491.

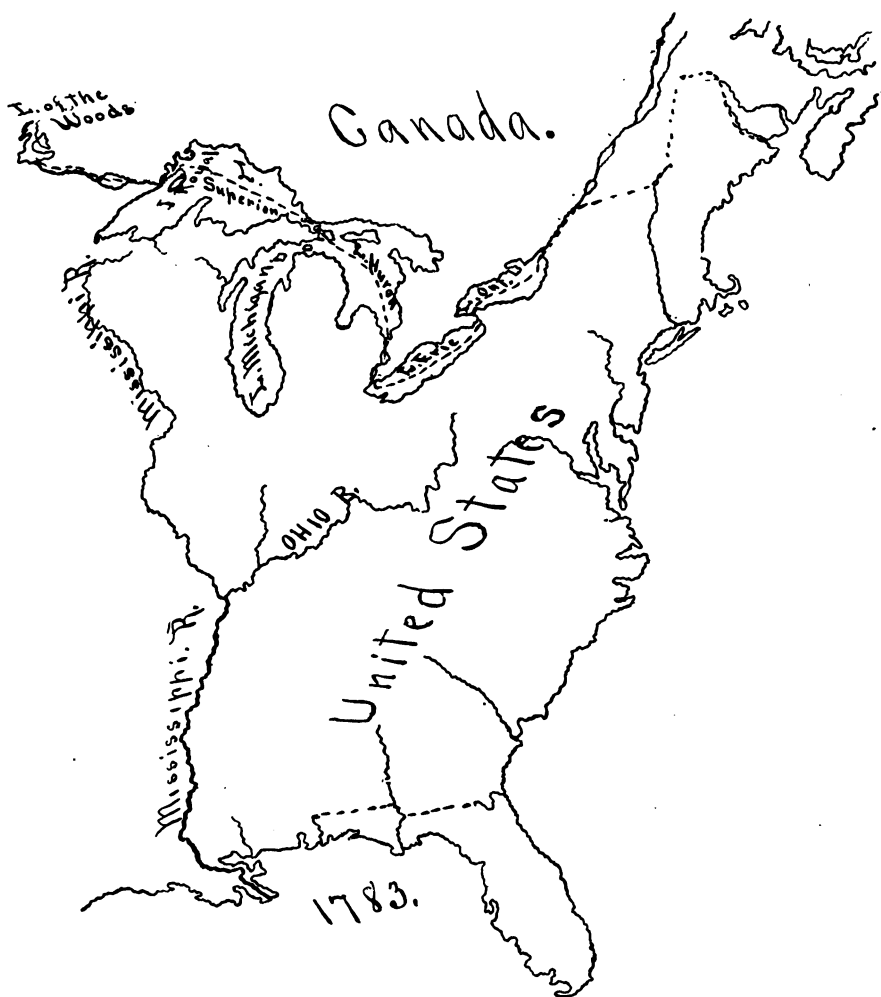
<sup>8</sup> "Treaty," Art. II, Map. Winsor's "Narrative and Critical History of America," Vol. VII, pp. 530, 542. Curtis' "Webster," Vol. II, p. 132. "Report of the Canadian Archivist," 1890, p. 137. Justin Winsor, in "Massachusetts Historical Society," published 1886-7, Vol. III, p. 349.



Shelburne's Life, Vol. III, p. 294.









In considering this line one peculiarity strikes us at once,—it runs through the middle of all the lakes and their water communications except Lake Superior where it runs “northward of the isles Royal and Philippeau.” Why should a boundary line which for hundreds of miles has run through the middle of the lakes, be suddenly turned and made to run within thirteen miles of the northwest shore of the largest lake? And why should two out of all the islands of that long waterway be mentioned, and only two? These questions, so far as I can discover, have never been fully answered; to do so, is in part, the purpose of this paper. I shall try to show that Benton was right when he asserted that the line ran through Lake Superior “to the northward of the isles Royal and Philippeau” because that was the general and well known route of travel to the northwest fur lands; and that the islands are mentioned simply because they were well known land marks by which that route was known.<sup>1</sup>

It is impossible to find answers to those questions in the reports or writings of the commissioners who established the boundary line; for there seems to have been little written discussion of any part of the line except the northwest part. It seems doubtful if there was even an oral discussion of the details of the lake boundary since it ran through a region very little known and valued only for its fur. Moreover it was thought, as Jay said, that “the waters would form a line which could never be mistaken.”<sup>2</sup> As a matter of fact no serious trouble has ever arisen out of this portion of the boundary line, although it was not all definitely determined for nearly sixty years after the treaty was made. Indeed, only once has it been carefully considered.<sup>3</sup> To answer the questions, then, as to why only a part of the lake boundary was thus specifically mentioned we must show:

1st. That there was no reason for specifying the islands in question except for the purpose of more fully identifying the direction of the line.

2d. That the line described followed the usual route of travel.

3d. That this last fact was known to the men who established the boundary line.

My reasons for thinking the isles Royale and Philippeau are mentioned in the treaty solely for the purpose of better identification of the line are that; in the first place, the Englishmen who made the peace considered them of no value, and the Americans probably knew it. On the only occasions when the matter was discussed, the British commissioners said:

“It may be remarked, in explanation of the fact of the British Commissioner who negotiated the treaty of 1783 having consented to cede isles Royale and Philippeau to

<sup>1</sup> “Congressional Globe,” 27th Cong., 3d Sess., appendix, p. 2.

<sup>2</sup> Above page 18.

<sup>3</sup> “Ex. Doc., No. 451,” 25th Cong., 2d Sess., Vol. XI.

the United States, that the latter power was at that time very desirous of extending its territory as far as possible; that its government was then less acquainted with the Canada than the British government was; that the United States supposed the islands above mentioned to be worth attaining, while the British government knew them (as far as they were known in the Isle Royale) to be worthless. Great Britain, therefore, agreed to yield them, as a great boon requested of her, and consented to run the line, in a curved manner, *northward*, so as to include them within the American line."<sup>1</sup>

He makes, however, no attempt to prove his statement. It is probably true that the English thought they were not yielding much in giving up these islands;<sup>2</sup> for Townsend, who was one of the ministry, had some time before, been one of the partners in a mining company which proposed to operate in this very region, but which failed to take out the charter which Parliament granted them, in the belief that the returns from the undertaking would not be sufficient.<sup>3</sup> But it is equally probable that the American ministers knew all about the matter for there was nothing secret about the affair, apparently, and Franklin, at least, was, and had always been, sufficiently interested in the mineral region to keep track of all that was done there.<sup>4</sup>

Secondly, it is extremely improbable that the commissioners for peace would quibble about one or two islands, however valuable one of the parties may have considered them, when they had already agreed on the partition of so vast a region. It seems absurd to suppose that the commissioners rendered the line so circuitous for the sole purpose of placing a few islands, about which nobody knew much, within the borders of a state. The absurdity of such a purpose increases when we consider the second part, i. e., that the line described followed the usual route of travel.

To prove this I shall first show that the usual point of departure from Lake Superior into the Northwest was, in 1783 and long before, by way of the Grand Portage; and that the route from the foot of the lake to that depot was northward.

There can be no doubt that the Grand Portage for many years was the usual way by which the traders went into the west, that it was so used at the time the treaty of 1783 was made, and that it was the best known port on the lakes west of Mackinaw. Alexander Henry, who, in 1765, received a license for the exclusive trade of Lake Superior<sup>5</sup> went and came in his journeys to the northwest by the Grand Portage.<sup>6</sup> Captain Carver in the account of his explorations made between the years 1766-68 speaks of the Grand Portage as the place where "those who go on the

<sup>1</sup> "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI, p. 101.

<sup>2</sup> The isles Philippeau have never been identified, and probably never existed except as an optical delusion. "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI, p. 72.

<sup>3</sup> Henry's "Travels," p. 235. Carver's "Travels," pp. 139, 226. Report on the History of Geological Surveys, Michigan Senate Journal, Vol. I, 1869, p. 569.

<sup>4</sup> See "Canada Pamphlet," in Franklin's "Life and Writings," Vol. I, pp. 248, 256; Vol. III, pp. 69-77; Vol. IV, pp. 1-53.

<sup>5</sup> Henry's "Travels," p. 192.

<sup>6</sup> Henry's "Travels," pp. 239-330.

northwest trade \* \* \* carry over their canoes and baggage:"<sup>1</sup> William McGillivray, a partner of the Northwest and Hudson Bay Companies, says of the Grand Portage:

"By this route, and this route only, was trade to the northwest country carried on by the French while in possession of Canada; and from the conquest until the year 1803 by the English traders; when the difficulties and expense attending the transport of goods from Lake Superior, by way of the Grand Portage, to Lake La Pluie, became so great that the Northwest Company removed the general depot to Kamanistiquia \* \* stationed about fifty miles eastward of the Grand Portage." "That the route by the Grand Portage to Lac La Pluie (the only one practiced or known to the French Indian traders) was the one contemplated by the treaty of 1783, I have little doubt."<sup>2</sup>

McKenzie, who traveled over the fur traders' country so much, says plainly that the French had their principle establishment at the Grand Portage, and that when the fur trade fell into English hands it "became the principal entrepôt of that trade."<sup>3</sup> But the best proof that the Grand Portage was, in 1783, the route to the west is the actions of the traders themselves when the terms of peace were announced. The importance of the peace to them is shown in the following extracts from letters written at the time. Benjamin Frobisher, a member of the fur company, who evidently knew more about business than grammar, writes to one of the officers under General Haldimand who was then in command of Canada:

"Respecting the Line of Boundary between this Province and the United States, from Lake Superior to the Westward; with regard to which I must remark that there is no such thing as a Long Lake as expressed in the Treaty, the only communication from Lake Superior is by that tract of land known by the name of the Grand Portage \* \* \* \*. It is not, as described, a Long Lake, but is rather a Chain of Lakes, \* \* \* so that we are at a loss to know from the Tenor of the Treaty where the line is intended to be drawn, and anxiously wish to be informed about it, \* \* \*. Indeed, for my own part I apprehend a survey of the Carrying Place and the Country adjacent will be highly necessary to ascertain and fix unalterably the line in that Quarter, while on the other hand it will give us time to discover another passage, if such a thing exists, whereby we may in all events leave that branch of the Fur Trade to this Province.

The Gentlemen who are engaged in it have ever since the year 1776, carried it on under all the disadvantages inseparable from a state of War \* \* \* \*.

They do not know how soon they may be deprived of the immediate and at present the only communication from Lake Superior, and on that account they intend at their own expense unless Government prefer to undertake it, to discover if possible another passage, that will in all events fall within the British line \* \* \*. In the mean time should the Upper Posts be given up, we are convinced His Excellency will give such orders as may appear to him necessary for the Company's Protection, \* \* \* until the Line of Boundary in that Quarter is surveyed, and unalterably fixed, that their Property may not be exposed nor the present Communication in the least degree interrupted until they are legally entitled to take possession and if by that Time no other Passage is discovered, they even hope in that case, it may be stipulated the Carrying

<sup>1</sup> Carver's "Travels," p. 106.

<sup>2</sup> "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI, p. 122; see also "Report of the Canadian Archivist," 1880, p. 53.

<sup>3</sup> McKenzie's "Voyages," p. VIII.

place and the Communication to the extent of their Territory \* \* \* to remain equally free for both parties."<sup>1</sup>

This anxiety resulted a few months later in a memorial of the Northwest Company to General Haldimand stating:

"That the Company from the Boundary described in the late treaty of Peace being apprehensive the United States would avail themselves of every means in their power to depose them of their Trade to the North West, from being entitled to an equal, if not an exclusive right to the Grand Portage on Lake Superior \* \* \* have explored for a passage 'North of the line of Boundary,' and ask "an exclusive privilege of Trade from Lake Superior to that country for ten years only."<sup>2</sup>

This memorial is accompanied by a letter from Benjamin and Joseph Frobisher in which is given a brief history of the northwest trade, and the formation of the Northwest Company in 1782:

"To secure and promote their mutual interests, but also to guard against any encroachments of the United States on the line of Boundary, as ceded to them by the treaty from Lake Superior to Lake du Bois" and "Having every reason to expect from the line to be drawn as explained in the late treaty of Peace, that they would soon be dispossessed of the Grand Portage, situated at the North West extremity of Lake Superior, which is the only part of that country where there is a possibility of getting to the Water Communication which leads to Lake du Bois \* \* \* from which your Excellency will perceive the Grand Portage is the key to that part of British America and should the United States be put in possession before another passage is discovered that valuable Branch of the Fur Trade must be forever lost to this Province."<sup>3</sup>

These, and other letters and memorials, brought the following letter from General Haldimand's secretary, who gives:

"As his Excellency's opinion that at present it would be most prudent not to express any doubts respecting the Boundary Line or to propose a survey of it, for whenever that happens it must be a mutual business and will give the Americans an opportunity of acquiring an equal knowledge with us of the advantages of the fur trade, \* \* \*. The Long Lake mentioned in the Treaty appears under that name in the best maps and is the chain of Lakes you mention thro' which it is intended the line shall run. His Excellency, nevertheless, approves your design of endeavoring to discover another passage which will fall within the British Line. \* \* \* ."<sup>4</sup>

There can be, then, no doubt that the Grand Portage was the station toward which the western traders journeyed when they left the Sault, the next question is, did they reach it by going northward of Isle Royale?

Carver and Henry both speak as if the route from Mackinaw to the Grand Portage ran to the northward.<sup>5</sup> It seems natural too, that the travel should have been toward the north, rather than the south shore of the lake, as there must have been constant communication between

<sup>1</sup> "Report Canadian Archivist," 1883, pp. 63-4. Other letters of the same tenor are given, "Report Canadian Archivist," 1888, pp. 60, 62, 65; 1888, p. 72, "Haldimand Collection," pp. 718, 723-4.

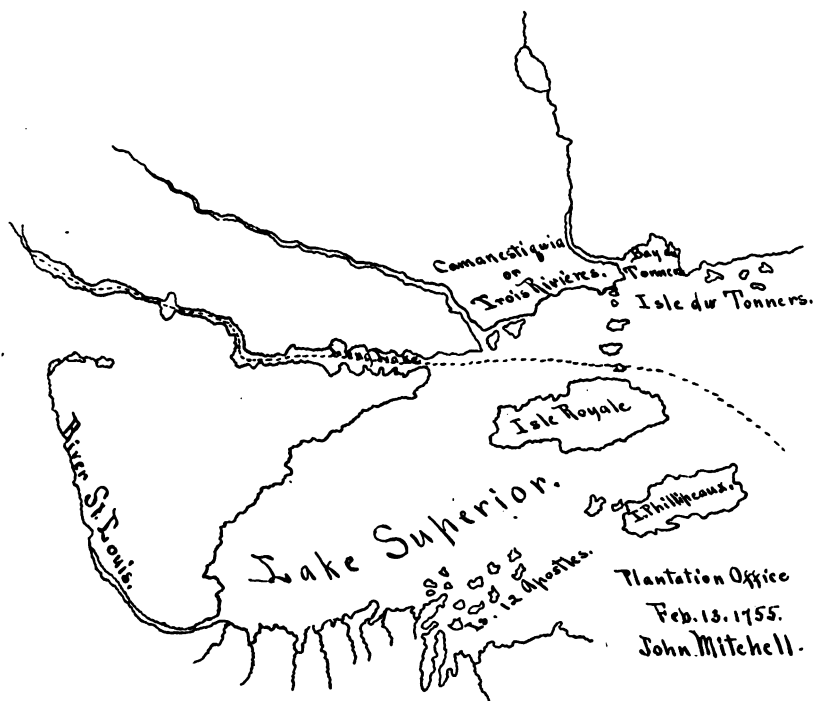
<sup>2</sup> "Report Canadian Archivist," 1890, pp. 48-9.

<sup>3</sup> *Ibid.*, 1890, pp. 50-51.

<sup>4</sup> *Ibid.*, 1888, p. 65.

<sup>5</sup> Carver's "Travels," pp. 106-7. Henry's "Travels," pp. 236-8.



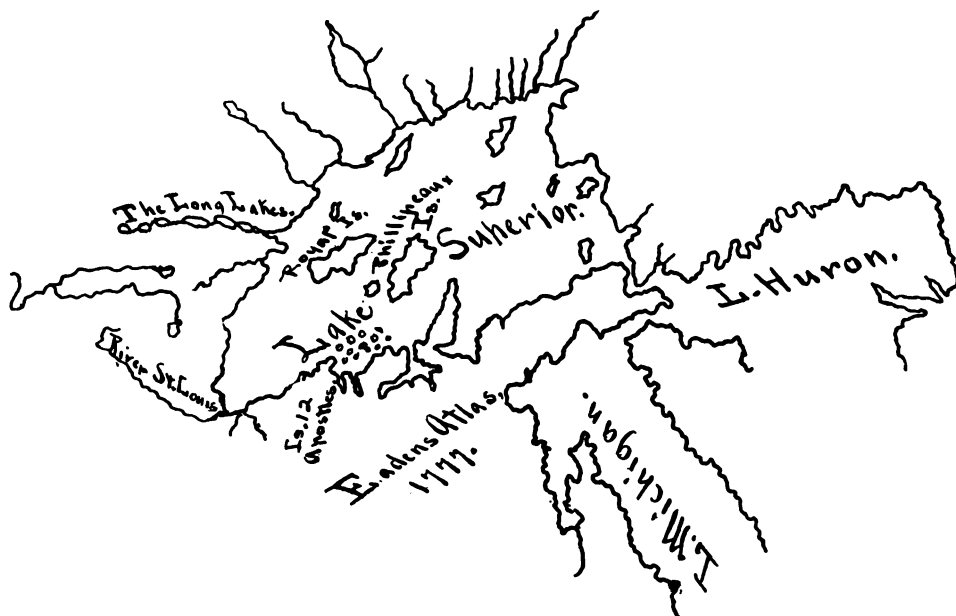




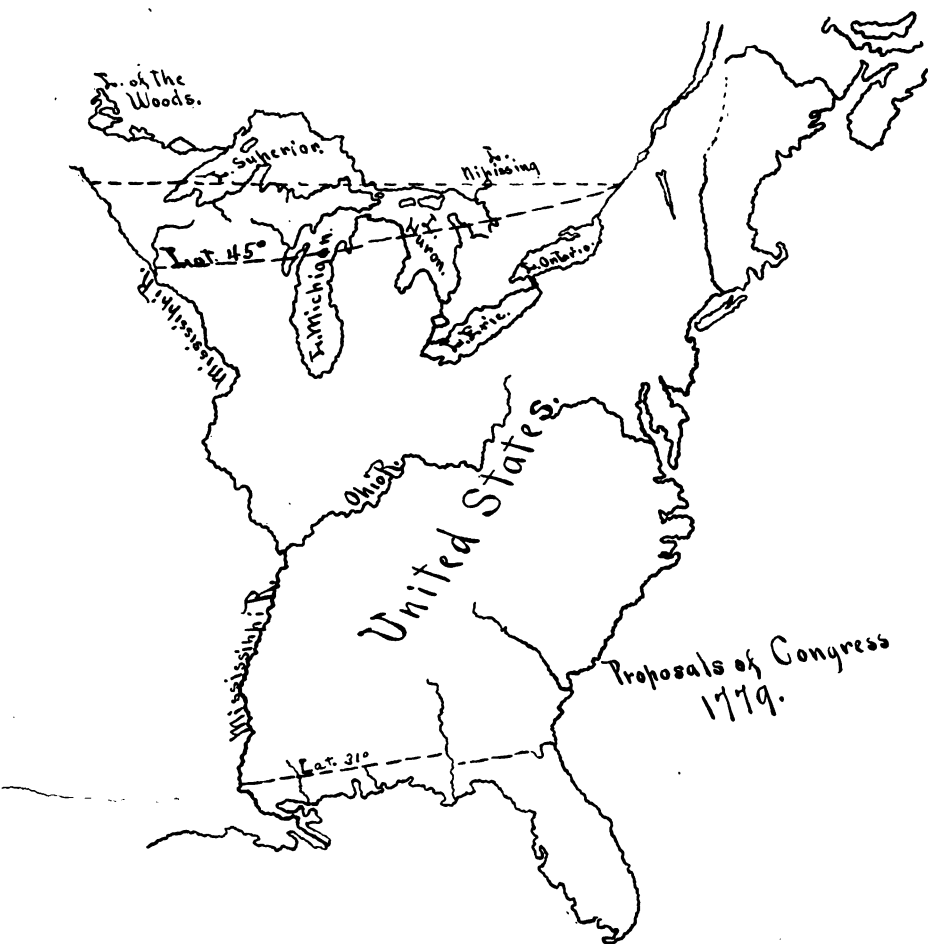




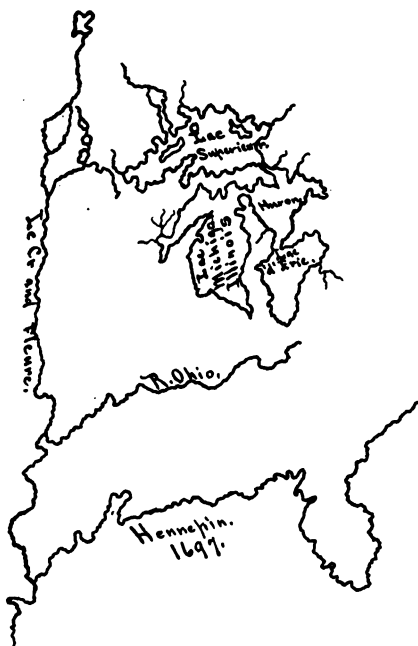












the traders on the lakes and those of the Hudson Bay Company.<sup>1</sup> Moreover, most of the maps, from the earliest times until after 1783, show the Grand Portage as opposite the northern rather than the southern end of Isle Royale.<sup>2</sup> Whether all these maps were known to the men who made the treaty we cannot tell, but they were published in England and doubtless were well known. We have, however, the word of the commissioners themselves that they knew and used Mitchell's map<sup>3</sup> and that distinctly marks Long Lake, through which the boundary line is to pass from Lake Superior, at the northwest of Isle Royale.<sup>4</sup> So a line from the Sault to Long Lake on Mitchell's map takes a simple curve toward Long Lake and does not have the "unauthentic appearance" which it shows on a modern map. Seeing then, 1st, that there was no reason for specifying the isles, 2d, that the most natural route of travel was along the northern shore of Lake Superior, 3d, that the old and only route to the west was by Grand Portage which lies west of Isle Royale, and that the Grand Portage was placed to the northward rather than to the southward of that island, on the maps known to the men who established the boundary line; I think, in the absence of any proof to the contrary, that we may conclude that that line was made to follow the usual route of travel and that the islands are mentioned simply to define the line more clearly.

The boundary line through the lakes was of interest to so few people that it was a long time before the need of definitely determining it was recognized. Mr. Jay says that one reason the commissioners of 1783 chose a line through the waters was "because the waters would form a line which could never be mistaken."

Determining  
the line.

But since it was described as running through the *middle* of the waters, instead of through the *middle* of the *main channels* it has been mistaken many times, nor indeed is it fully determined yet. The history of the determination of the line is devoid of the dramatic incidents which accompanied the settlement of the St. Croix line, or the thrilling stories of the Mississippi explorers, but it is not without interest to Michigan people at least.

The boundary line along the middle region received little attention for many years. There were boundary disputes<sup>5</sup> but the authorities seemed to feel that these would cease when the posts were out of British hands,

<sup>1</sup> *Ante*, pp. 21 and 22, notes to Report Canadian Archivist.

<sup>2</sup> Carver's map in his "Travels;" also "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI. Jefferies' Map. Mills', "Ex. Doc., No. 541," 25th Cong., 2d Sess., Vol. XI, "A" Nos. 3 and 4. Charlevoix, "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. II, "A" Nos. 3 and 4. Faden's Map. *Ibid.*, "A" Nos. 6 and 7. D'Aguilles-Mills. Winsor, IV. Mitchell's "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. II. "Annual Register," 1783.

<sup>3</sup> See note 8, p. 18. Waite's "State Papers," Vol. X, p. 15, "Confidential."

<sup>4</sup> American State Papers, "Foreign Relations," Vol. I, p. 491.

<sup>5</sup> American State Papers, "Foreign Relations," Vol. I, p. 490; Vol. III, p. 701. "Public Lands," Vol. I, p. 255. Roosevelt, "Winning of the West," Vol. II, p. 379; Vol. III, Chap. VII. "Michigan Pioneer Collections," Vol. XII, p. 280.

or perhaps they were too much occupied with more important matters to give much heed to the quarrels of a few people in the west.

When Jay went on his mission to England in 1794 he was instructed  
1794. " \* \* \* to draw to a conclusion all points of difference

between the United States and Great Britain, concerning the treaty of peace."<sup>1</sup> But the lake boundary was touched only when Grenville, the British Minister, proposed that, as the treaty line from the Lake of the Woods west would not reach the Mississippi, a new line should be run "to the northward of the Isle Philippeau" as by the treaty, "and from thence \* \* \* shall proceed to the bottom of West Bay," and thence to the Mississippi and the Lake of the Woods.<sup>2</sup> Jay refused to consider the matter at all, as he was not authorized to cede or acquire territory.<sup>3</sup> He proposed, however, that, as no line could be determined upon until surveys were made, a commission for that purpose should be appointed. Such a commission was provided for in the treaty then made.<sup>4</sup> Had Grenville's proposal been accepted, the northern boundary line of Michigan would have been brought nearly two hundred miles further south, as it was not this proposal is of historic interest only. This was the only time, previous to 1814, that the lake boundary was formally considered in the course of negotiations with Great Britain.<sup>5</sup>

During our second war with Great Britain John Quincy Adams, J. A. Bayard, Henry Clay and Jonathan Russell were sent to Europe to make a treaty of peace, with the instruction, among others, that "should a restitution of territory be agreed on, it will be proper for you to make a provision for settling the boundary between the United States and Great Britain, on the St. Lawrence and the lakes, \* \* \*, according to the principles of the treaty of peace."<sup>6</sup> The British Commissioners for peace, Lord Gambier, Henry Goulburn and William Adams, were also instructed by their government to demand an adjustment of boundaries.<sup>7</sup>

This mutual, and somewhat sudden, interest in the boundary question is due to the fact that an element in both countries desired to make this a war for conquest of territory. The authorities on both sides denied that such was the purpose<sup>8</sup> of the war, but the facts do not prove their statements true. In the United States there were many who, like Franklin in the old days, were anxious for Canada. Henry Clay himself had been applauded in the House of Representatives when in the beginning of the war he advised "negotiating the terms of peace at Quebec or at

<sup>1</sup> American State Papers, "Foreign Relations," Vol. I, p. 472.

<sup>2</sup> *Ibid.*, p. 488; Map, p. 392.

<sup>3</sup> American State Papers, "Foreign Relations," Vol. I, p. 490.

<sup>4</sup> "Treaty," 1794, Article IV. Jay's "Correspondence and Public Papers," Vol. IV, pp. 74, 87-97.

<sup>5</sup> American State Papers, "Foreign Relations," Vol. I, p. 62; Vol. II, pp. 584-591; Vol. III, p. 97.  
<sup>6</sup> Canadian Archives, 1885, p. XCV, *et seq.*

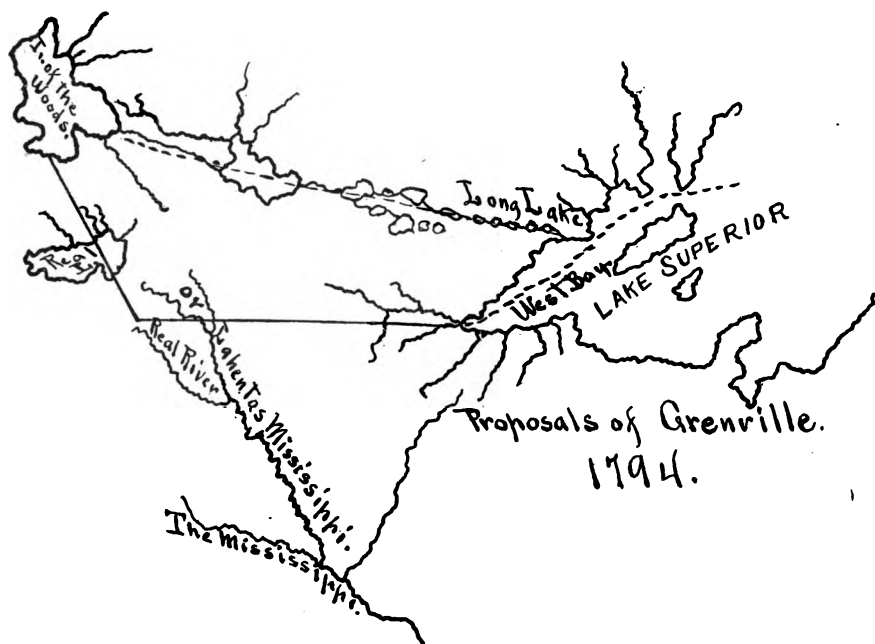
<sup>7</sup> American State Papers, "Foreign Relations," Vol. III, p. 701.

<sup>8</sup> Henry Adams, "History of the United States," Vol. IX, p. 18.

<sup>9</sup> Hansard's "Debates," Vol. XXX, p. 501. American State Papers, "Foreign Relations," Vol. III, pp. 714, 723. "Annual Register," 1815, pp. 15-21.

<sup>9</sup> Clay's "Life and Speeches," Vol. I, p. 258.





Proposals of Granville, 1794. From Am. State Papers Foreign Relations, Vol. I, p. 472.



Halifax,"<sup>9</sup> and Secretary Monroe, in June of 1813 instructed our peace commissioners, to bring to view the advantage to both countries which is promised by a transfer of the upper parts and even the whole of Canada to the United States.<sup>1</sup> The English, on the other hand, considered the war an opportunity to regain a part of the territory which had been too easily yielded thirty years before; and also an opportunity to try that old plan of establishing an Indian territory, which should be a "buffer state" between Canada<sup>2</sup> and the United States. The Canadian "Gazette" insisted that the United States should be made to surrender certain lands along the St. Lawrence and the Niagara as well as certain northern posts.<sup>3</sup> The "London Courier" said peace "must be on condition that America has not a foot of land on the waters of the St. Lawrence, \* \* no settlement on the lakes."<sup>4</sup> The peace commissioners said, an establishment of an Indian territory was necessary to peace<sup>5</sup> between the United States and Great Britain.

When the American and British Commissioners came together at Ghent, the Americans felt that the boundary question should be left until the weightier and more pressing matters were disposed of;<sup>6</sup> but the British insisted that the settlement of a definite boundary for the territory of their Indian allies was a *sine qua non*.<sup>7</sup> The boundary they proposed was that established by the treaty of Greenville.<sup>8</sup> Now the Greenville treaty had been made by the United States and the Indians in 1795, and had set aside a large part of the territory north of the Ohio and between the Mississippi and the lakes, for the exclusive use of the Indians.<sup>9</sup> All this territory, then, the British government proposed to give to the Indians. Of course, since 1795 the United States government had made many other treaties with the Indians so that their possessions had been reduced. Several territories had been organized within the region; Ohio was already a state and Indiana about to become one. These facts were presented to the British Commissioners with the questions:

"What was proposed to be done with the inhabitants, citizens of the United States, already settled beyond the line of the Treaty of Greenville—the Territories of Michigan, of Illinois, and part of the State of Ohio, amounting perhaps to one hundred thousand, many of whom had been settled there with their ancestors one hundred years. Mr. Goulburn said that their case had not been considered by the British Government; that it might be a foundation for the United States to claim a particular

<sup>1</sup> These instructions do not appear in the published documents, probably because they were not acted upon, but Adams urged his colleagues to act upon them, and they are in manuscript. Henry Adams, Vol. IX, pp. 11-12. J. Q. Adams' "Memoirs," Vol. III, pp. 9, 25-30.

<sup>2</sup> J. Q. Adams' "Memoirs," Vol. III, pp. 9, 25-30.

<sup>3</sup> Henry Adams, Vol. IX, pp. 7-8.

<sup>4</sup> *Ibid.*, p. 31.

<sup>5</sup> American State Papers, "Foreign Relations," Vol. III, p. 705.

<sup>6</sup> *Ibid.*, p. 706.

<sup>7</sup> *Ibid.*, p. 705, *et seq.*

<sup>8</sup> *Ibid.*, p. 710. J. Q. Adams' "Memoirs," Vol. III, pp. 8, 9, 18. Henry Adams, Vol. IX, pp. 18, 19. Winsor's "Narrative and Critical History of America," Vol. VII, p. 485.

<sup>9</sup> American State Papers, "Indian Affairs," Vol. I, p. 562.

modification of the line, and if that should not be agreed to they might remove." His colleague, Dr. Adams, said the people "must shift for themselves."<sup>1</sup>

But such men as Gallatin, Clay and John Quincy Adams were not likely to let their fellow citizens "shift for themselves;" nor to give up any territory to which the United States had a claim, to say nothing of what was a vital part. Two months of waiting and discussion<sup>2</sup> followed this "utterly untenable and inhuman"<sup>3</sup> demand. Then the British withdrew their proposal, on condition that all the possessions and privileges belonging to the Indians at the beginning of the war should be restored to them.<sup>4</sup> Whatever else she might become Michigan was not to be an Indian country.

But the British also demanded that the whole line between Canada and the United States should be changed, since they proposed that the differences should be settled on the basis of present possession.<sup>5</sup> Had this been agreed to we should have Amherstburg while Mackinaw would belong to Canada,<sup>6</sup> and Michigan's boundary line would probably not run so far north. But this demand, too, the British gave up and the settlement of the boundary, "according to the principles of the treaty of peace,"<sup>7</sup> was then considered.

In the discussion upon this point neither party seemed inclined to change the line<sup>8</sup> running through the lakes, but the British did propose starting anew in running a line from Lake Superior to the Mississippi.<sup>9</sup> The American Commissioners seem not to have heard of this same proposition having been made to Jay<sup>10</sup> for they were surprised when the proposition was made and asked whether the British "did not mean the line from the Lake of the Woods to the Mississippi."<sup>11</sup> Though assured of the contrary,<sup>12</sup> the Americans considered this a demand for territory and, refusing to review that line, proposed a reference of the whole Canadian boundary to commissioners.<sup>13</sup> This proposition was agreed on and embodied in the fifth, sixth, and seventh articles of the Treaty of Ghent, ratified December 24, 1814.<sup>13</sup>

The portions of the boundary with which this paper has to deal were covered by the sixth and seventh articles of this treaty.

Article six provides that:

<sup>1</sup> American State Papers, "Foreign Relations," Vol. III, pp. 710-724. J. Q. Adams' "Memoirs," Vol. III, p. 19.

<sup>2</sup> Henry Adams, Vol. IX, pp. 26-28.

<sup>3</sup> Hansard's "Debates," Vol. XXX, pp. 500, 521, 522, 530.

<sup>4</sup> American State Papers, "Foreign Relations," Vol. III, p. 723.

<sup>5</sup> American State Papers, "Foreign Relations," Vol. III, p. 706.

<sup>6</sup> *Ibid.*, p. 716. Adams' "Life of Gallatin," pp. 535-6, 539-40.

<sup>7</sup> American State Papers, "Foreign Relations," Vol. III, p. 725.

<sup>8</sup> Gallatin's "Writings," Vol. I, p. 640, *et seq.*

<sup>9</sup> American State Papers, "Foreign Relations," Vol. III, pp. 709, 712, 714. Waite's "State Papers," Vol. IX, p. 334.

<sup>10</sup> *Ante*, p. 24.

<sup>11</sup> American State Papers, "Foreign Relations," Vol. III, p. 709.

<sup>12</sup> *Ibid.*, p. 712, 714.

<sup>13</sup> *Ibid.*, pp. 734-737, 741. Treaty, Articles, V, VI, VII.

"WHEREAS, By the former treaty of peace that portion of the boundary of the United States from the point where the forty-fifth degree of north latitude strikes the river Iroquois (St. Lawrence) to the Lake Superior, was declared to be along the middle of said river into Lake Ontario;"

and so on through the middle of the lakes and rivers up to Lake Superior.

"AND WHEREAS, Doubts have arisen what was the middle of the said river, lakes and water communications, and whether certain islands lying in the same were within the dominion of his Britannic Majesty or the United States. In order, therefore, finally to decide these doubts, they shall be referred to two commissioners."

Article seven says:

"It is further agreed that the two last mentioned commissioners, after they shall have executed the duties assigned to them in the preceding article, \* \* \* are hereby authorized upon their oaths impartially to fix and determine, according to the true interest of the said treaty of peace, of one thousand seven hundred and eighty-three, that part of the boundary which extends from the water communication between Lake Huron and Lake Superior, to the most northwestern point of the Lake of the Woods."

Such parts of this boundary as required it were to be surveyed and marked by the commissioners.<sup>1</sup>

In due time the British government appointed one Anthony Barclay, and the United States government appointed General Peter B. Porter, to act as commissioners under these articles of treaty.<sup>2</sup> The work of these commissioners was easy compared with that of those who had to determine the line from the Atlantic to the conjunction of the St. Lawrence with the forty-fifth parallel. Nevertheless up to 1822 they were only able to "report progress," and after ten years of effort they decided it was impossible to reach an agreement upon certain portions of the line.

Of course in determining the boundary line "according to the true intent of the treaty of 1783" it was necessary to determine first what was meant by the "middle" of the rivers and lakes. The commissioners early decided that an equidistant line through the lakes and water communications, as prescribed in the treaty of 1783, was impracticable and unscientific because of the currents and islands.<sup>3</sup> It was therefore agreed to construe the "middle" to mean the middle of the main channel.<sup>4</sup> But here was another difficulty; of perhaps ten channels which was the main one? It was decided to settle this question by the rules of common sense and to trace, "such a boundary as would be best calculated to secure to each party the largest possible

Manner of  
determining  
the line.

<sup>1</sup> American State Papers, "Miscellaneous," Vol. II, p. 513. "Treaty," Articles VI, VII.  
<sup>2</sup> "Sen. Doc. No. 319," 25th Cong., 2d Sess., Vol. IV, p. 16. American State Papers, "Miscellaneous," Vol. II, p. 316.  
<sup>3</sup> "Ex. Doc. No. 451," 25th Cong., 2d Sess., Vol. XI, pp. 6, 8, 9. American State Papers, "Miscellaneous," Vol. II, p. 513.  
<sup>4</sup> "Ex. Doc. No. 451," 25th Cong., 2d Sess., Vol. XI, p. 7.

participation in the benefits of the great navigable thoroughfare through which it passes," and "would divide the islands equally in point of value, and conveniently in regard to location;" while at the same time providing "such a boundary as could be easily run and preserved, and readily recognized, and would place the citizens \* \* \* of the two governments in such situations relatively to each other as would be least likely to create misunderstandings and feuds." To accomplish this a water line was uniformly adopted.<sup>1</sup>

The method of determining this water line was evidently too slow and expensive to suit the popular mind.<sup>2</sup> More than a year after the appointment of the commissioners, Niles' Register sarcastically remarks that "the boundary commission; so called, appointed by the United States and Great Britain, appear about to commence running the line to determine the boundary east of Lake Champlain."<sup>3</sup> And Congress seems to have suspected dishonesty somewhere, for in 1818 the House appointed a committee to investigate the "subject of the expenses incurred under the fourth, fifth, sixth, and seventh articles of the Treaty of Ghent, with instructions to inquire into the nature and causes of said expenses, and into the principles upon which the commissioners under the sixth and seventh articles of said treaty have proceeded in the execution thereof."<sup>4</sup> Two years later the President was asked for reports from the commissioners, in order that the House might know whether anything had been done within a year.<sup>5</sup> In response to this demand, it was explained that it was not understood reports were expected from the commissioners until the work was completed; and General Porter presented a detailed account of the expenses incurred, as well as the work done under his authority.<sup>6</sup> He adds that the work under the sixth article will probably be completed the following season, and that while it will have "consumed considerable time and expense, I flatter myself that the maps and surveys which will accompany our report will show that we have not been idle; and that besides exhibiting a clear and distinct demarcation of the boundary, they will furnish the government with a mass of most useful information, in respect to a very considerable line of navigation, which is daily and rapidly growing into importance."

"The seventh article," General Porter goes on to say, "relates to a country which is, comparatively, of little importance; and a system of operations is proposed to be adopted, for designating the boundary, which will greatly reduce both the time and expense of execution."<sup>7</sup> These reports and explanations appear not to have been entirely satis-

<sup>1</sup> "Ex. Doc. No. 451," 25th Cong., 2d Sess., Vol. XI, p. 7.

<sup>2</sup> American State Papers, "Miscellaneous," Vol. II, p. 513.

<sup>3</sup> Niles' "Register," Vol. XII, p. 224.

<sup>4</sup> American State Papers, "Miscellaneous," Vol. II, p. 512. "Niles Register," Vol. XIV, p. 101.

<sup>5</sup> American State Papers, "Foreign Relations," Vol. IV, pp. 647-650. "Niles Register," Vol. XIX, pp. 297, 306, 311.

<sup>6</sup> "State Papers, No. 30," 16th Cong., 2d Sess., Vol. I, pp. 13-40, 52.

<sup>7</sup> "State Papers, No. 30," 16th Cong., 2d Sess., Vol. I, pp. 56-58.

factory to Congress for a bill was passed fixing the amount of money to be spent on the boundary line;<sup>1</sup> while the House Committee suggested that the financial report should have been earlier rendered, and expressed regret that a less expensive system of operation had not been sooner adopted.<sup>2</sup>

According to General Porter's prophesy, the boundary line to the head of Lake Huron was determined "the following season." The Annual Register records that:

"The Hon. Anthony Barclay and General Porter, the Commissioners, together with the agents and secretaries, met in the village of Oneida on the 14th of June, and after a sitting of four days, amicably concluded the decision of the articles submitted to their arbitration. In the course of their undertaking nearly 3,000 islands have been surveyed and adjudicated upon, many of which are of great value and importance."<sup>3</sup>

Four days later a formal report was made to the United States government<sup>4</sup> and its acceptance fixed the line which was to become the eastern boundary of Michigan.

In the adjustment of this part of the line there seems to have been trouble with regard to but two islands, one in the Detroit River, the other at the mouth of the St. Mary's River. The island of Bois Blanc, being at the mouth of the Detroit River, might be the key to all the upper lake region, so its possession had been questioned, not to say contested ever since the treaty of peace had been published. But it had been held by the British since 1802<sup>5</sup> and was now given to them, on condition that Sugar, Fox and Stoney Islands be given to the United States.<sup>6</sup> Drummond Island, at the entrance to the St. Mary's River, had long been occupied by United States citizens, but during the process of their negotiations was garrisoned by British troops. In this case, however, might was right, and the island was formally yielded to the United States.<sup>7</sup>

On completing the boundary line to the head of Lake Huron, the commissioners at once proceeded to their work under the seventh article of the Treaty of Ghent, i. e., to determine the line from this point to the Lake of the Woods. The whole of this line is not of interest to us, but part of it is as the northern boundary of Michigan is the boundary line between the United States and Canada, running through Lake Superior to the point where the line leaves the lake. General Porter had stated that "the seventh article relates to a country which is, comparatively, of little importance; and a system of operation is proposed to be adopted, for designating the boundary, which will greatly reduce both the time and expense of its opera-

Under the 7th  
article of the  
Treaty of  
Ghent.

<sup>1</sup> "Statutes at Large," Vol. III, p. 640. "House Journal," 16th Cong., 2d Sess., pp. 98, 103, 329, 331.

<sup>2</sup> American State Papers, "Foreign Relations," Vol. IV, p. 648.

<sup>3</sup> "Annual Register," 1822, p. 104.

<sup>4</sup> "State Papers, No. 91," 17th Cong., 2d Sess., Vol. VI. "Niles Register," XXII, p. 311. "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI.

<sup>5</sup> "Report Canadian Archivist," 1885, p. XCV, *et seq.* Weld's "Letters," Vol. II, p. 170, *et seq.*

<sup>6</sup> "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. II, p. 120.

<sup>7</sup> "State Papers, No. 91," 17th Cong., 2d Sess., Vol. VI; No. 30, 16th Cong., 2d Sess., Vol. I, p. 50.

<sup>8</sup> "State Papers, No. 30," 16th Cong., 2d Sess., Vol. I, p. 58.

tion.”<sup>8</sup> But the General was mistaken in all of this prophesy; after working five years the commissioners gave up the attempt to determine all the points in the line and so report to their respective governments,<sup>1</sup> as the treaty under which they worked had provided they should do in such a contingency.<sup>2</sup>

The first difficulty which met the commissioners on coming to work under the seventh article arose out of the fact that the treaty of 1783, as well as that of 1814, described the boundary as “passing through Lake Huron to the water communication between that lake and Lake Superior; thence through Lake Superior” instead of “thence along the middle of said communication into Lake Superior” as was the phraseology for the other parts of the boundary. They decided, however, to consider this as a simple mistake of the treaty makers and to treat this part of the line as if the usual phraseology had been employed.

Most of the line seems to have been determined without much difficulty, but there were two points upon which the commissioners could not agree; one was the appropriation of an island in St. Mary’s River, the other the point from which the line was to leave Lake Superior.

As to the first of these two points the commissioners reported that they could not agree on the line from:

“A point in the Neebish channel near Muddy lake, to another point in the middle of St. Mary’s river, about a mile above St. George’s or Sugar island; the British Commissioner being of opinion that the line should be conducted from the before-mentioned terminating point of the boundary line under the 6th Article, being at the entrance from Muddy lake into the ship channel, between St. Joseph’s island and St. Tammany’s island, to the division of the channel at or near the head of St. Joseph’s island; thence between St. George’s island and St. Tammany’s island, turning westwardly through the middle of the middle Neebish, proceeding up to and through the Sugar rapids, between the American main shore and the said St. George’s island, so as to appropriate the said island to his Britannic Majesty; and the American Commissioner being of opinion that the line should be conducted from the before-mentioned terminating point of the boundary under the 6th article, into and along the ship channel between St. Joseph’s and St. Tammany’s islands, to the division of the channel at or near the head of St. Joseph’s island (concurring thus far with the British Commissioner); thence turning eastwardly and northwardly around the lower end of St. George’s or Sugar island, and following the middle of the channel which divides St. George’s island, first from St. Joseph’s island and afterward from the main British shore to the above-mentioned point in the middle of St. Mary’s river, about one mile above St. George’s or Sugar island, so as to appropriate the said island to the United States.”<sup>3</sup>

The British Commissioner based his claim to St. George’s island on the fact that an equidistant line between the main shores would leave this island on the British side.<sup>4</sup>

This the American Commissioner admits, but he also proves that this rule was not usually applied in dividing islands when the main channel

<sup>1</sup> “Ex. Doc., No. 451,” 25th Cong., 2d Sess., Vol. XI.

<sup>2</sup> “Treaty,” Articles VI, VII.

<sup>3</sup> “Ex. Doc., No. 451,” 25th Cong., 2d Sess., Vol. XI, pp. 4-5, 43 *et seq.* Map, p. 33.

<sup>4</sup> *Ibid.*, pp. 54-60, 119-120.



was evident and so made a more natural dividing line.<sup>1</sup> Such a channel, the British Commissioner was obliged to admit, ran to the eastward of St. George's island.<sup>2</sup> Furthermore, to show that the main ship channel was the proper dividing line General Porter proves that, not only in the St. Mary's River but in the whole line, the British had received more territory than the Americans and that therefore, "the only approach toward an equal division of territory" would be secured by giving the island in question to the United States.<sup>3</sup> Indeed, so evidently right was the American view of the matter that, when the question came up for formal settlement fifteen years yater, the British Commissioner did not even suggest putting St. George's island within the British line.

The second point of difference between the commissioners under the seventh article of the Treaty of Ghent was regarding "the course of the boundary from Lake Superior to the Chandiere falls, in Lac La Pluie, situated between Lake Superior and the Lake of the Woods." The *American Commissioner* was of the opinion that the boundary ought to pass from Lake Superior, into the bay or estuary at the mouth of the River Kamanistiqua, "and the British Commissioner being of opinion that from Lake Superior the boundary should enter the mouth of the River St. Louis."<sup>4</sup> Here then was a dispute involving a distance of over two hundred miles. The claim that the boundary line should run through the lake to the west bay or St. Louis river was not a new one, as we have seen.<sup>5</sup> Lord Grenville proposed it to Jay in 1794, but then no reasons were given for the claims. In 1827 Mr. Barclay devotes many pages to proving that the St. Louis river route is the true course of the boundary. He tries to show:

- "1st. That it affords the most ostensible Long Lake.
- "2d. That it is an ancient commercial route.
- "3d. That it is the most navigable, and interrupted by far fewer portages.
- "4th. That it was anciently called 'the Lake' or St. Louis river.
- "5th. That the language of the treaty infers that the boundary west of Isle Royale should run to the south thereof."<sup>6</sup>

For the purpose of this paper it is hardly necessary to enter into a discussion of the truth or falsity of the 1st, 3d, or 4th of these points; suffice it to say that even if true there is no reason for thinking these facts were known to the men who made the Treaty of 1783. As to the evidence which Mr. Barclay gives to prove his second point, it proves quite as conclusively that the "ancient route" was not used until after the treaty was

<sup>1</sup> "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI, pp. 12, 19, 31-33.

<sup>2</sup> *Ibid.*, p. 61.

<sup>3</sup> *Ibid.*, pp. 12-20.

<sup>4</sup> "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI, pp. 4, 45, *et seq.*

<sup>5</sup> *Ante*, p. 24.

<sup>6</sup> "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI, p. 74, *et seq.*

framed. As to his fifth point I trust it has already been shown<sup>1</sup> that Mr. Barclay is mistaken in saying it is "to charge the treaty with containing an absurdity, not to infer that the line, after it passes north of Isle Royale, is to turn southward in its course towards the Lake of the Woods, and that it is rendered thus circuitous only for the purpose<sup>2</sup> \* \* \* \* of placing Isle Royale within the limits of the United States."<sup>2</sup> The line ran northward of Isle Royale to follow the route of travel.

The American Commissioner asserted an equally untenable claim when he insisted that the line should leave Lake Superior, not in the region of the old Grand Portage, but some thirty miles further north. He based his claim:

1st. Upon the language of the treaty.

2d. Upon the fact that the Kamanistiquia route affords the best and most continuous water communication between Lake Superior and the Lake of the Woods.

3d. The evidence of maps, many of which place a Long Lake on the Kamanistiquia River.<sup>3</sup>

As to the first point one must agree with General Porter that:

"It will require no little stretch of the imagination, and, at the same time, be paying but a poor compliment to the wisdom and consistency of the distinguished men who formed the treaty of 1783, to suppose that, in tracing a line from the head of St. Mary's to the mouth of St. Louis river, they would make so great a deviation from the plain and obvious course, and twice traverse the whole breadth of Lake Superior, for no other conceivable purpose than to encompass the inconsiderable territory of Isle Royale."<sup>4</sup>

But we must differ from him when he says:

"Arguments in favor of the former (Kamanistiquia route), as contrasted with that of St. Louis, will apply with nearly equal force in favor of the former in its competing claim with the mouth of the Pigeon river and the commencing point of the Grand Portage, \* \* \* , for although the two latter places are, like the former, covered from the head of St. Mary's river by Isle Royale, yet their situations are near the southern, as that of the former is near the northern extremity of that island; and had it been the intention of the framers of the treaty of 1783 to trace the boundary either to the Grand Portage or to the Pigeon river, and to reach the point of destination by the plainest and shortest water route, they would have conducted the line to the *southward* instead of 'to the northward of Isle Royale.'"<sup>5</sup>

For with this, as with the St. Louis route, nothing can be inferred from the language of the treaty of 1783 as there is no doubt Isle Royale was supposed to lie further south than it really does, so the route to the Pigeon River was supposed to lie "northward of Isle Royale."<sup>6</sup> The sec-

<sup>1</sup> *Ante*, pp. 19-23.

<sup>2</sup> "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI, p. 86.

<sup>3</sup> "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI, p. 20, *et seq.*

<sup>4</sup> *Ibid.*, p. 21.

<sup>5</sup> "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI, pp. 21-22.

<sup>6</sup> *Ante*, p. 23.

ond and third proofs, like the third and fourth of the British Commissioner, are of little worth. If, as both men confessed, the treaty makers were "equally ignorant of the geography of the country,"<sup>1</sup> how could they know that the "most continuous water route" lay by the St. Louis or some other route? And as for the testimony of the maps, which both Mr. Barclay and General Porter used to prove opposite points, what matters it whether they place Long Lake at the mouth of St. Louis river or of the Kamanistiquia, two hundred miles north; since the map used by the framers of the treaty<sup>2</sup> places Long Lake on the Pigeon River, near the old Grand Portage? Furthermore none of the witnesses called on to testify, in 1822-27, in behalf of the contending commissioners, believed that the framers of the Treaty of Peace meant to run the line into the Kamanistiquia or into the St. Louis River. They all believed that the line should run into the estuary of the Pigeon River.<sup>3</sup>

The weakness of their respective claims became evident to both the commissioners during the discussion. Both relinquished their pretensions and from two hundred miles came within six of agreeing.<sup>4</sup> The British Commissioner "offered to abandon the River St. Louis, on condition that his colleague would agree to accept the Grand Portage route, commencing on Lake Superior, about six miles to the southwest of the mouth of the Pigeon river; thence, up that river<sup>5</sup> and so to the Lake of the Woods. While the American Commissioner proposed "to relinquish the Kamanistiquia route, provided that his colleague would consent to run the line from the mouth of the Pigeon River"<sup>6</sup> and thence to the Lake of the Woods. It was impossible, however, for this distance to be overcome as General Porter felt "the obligation imposed by the treaty to follow a water communication, when one could be found, as imperative;"<sup>7</sup> and Mr. Barclay would accept the Pigeon River route, "provided the commissioner would agree to declare the portages on both sides to be common and free for the lawful use of both nations."<sup>8</sup> This the American Commissioner refused, "on the ground that such a stipulation would involve the exercise of powers not confided to him by his commission."<sup>9</sup>

So in 1827 the commissioners to determine the lake boundary finished their labors, leaving incomplete the line through the Neebish channel in St. Mary's River; and the line from a point, "one hundred yards to the north and east of a small island named on the map Chapeau, and lying opposite and near the northeastern point of Isle Royale,"<sup>10</sup> to the Lake La Pluie.

<sup>1</sup> "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI, p. 123.

<sup>2</sup> *Ante*, p. 23.

<sup>3</sup> "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI, pp. 75, 81, 122, 124, *et seq.* "Sen. Doc., No. 1," 27th Cong., 3d Sess., Vol. I, p. 105.

<sup>4</sup> "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI, pp. 23, 73, 90.

<sup>5</sup> *Ibid.*, pp. 23, 91.

<sup>6</sup> *Ibid.*, p. 23.

<sup>7</sup> *Ibid.*, p. 24.

<sup>8</sup> *Ibid.*, p. 92.

<sup>9</sup> *Ibid.*, p. 24.

Considering the immense amount of traffic through the Neebish channel today, it is hard to realize that for some years nothing more was done to determine the possession of the channels nor the ownership of St. George's island. But in those days the proprietorship of a strip of land in the east was of vastly more moment than the whole water way and all the islands between Mackinaw and the Sault. Even as late as 1835 Sir Robert Peel said that the only question in dispute between Great Britain and the United States was the Maine boundary.<sup>1</sup> The next year Michigan was admitted as a State, with the international line for the eastern and northern boundary; and no one seemed troubled because the international line was not wholly defined.

All these years the attempts to settle the line between Maine and New Brunswick had been in vain, and the situation was becoming alarming. Maine declared the United States Government had no right to yield to Great Britain any land which she claimed. The central authorities were forced to acknowledge the truth of Maine's claims,<sup>2</sup> and it was only by skillful management that serious difficulty with Great Britain was avoided. This trouble had the effect of showing our statesmen that international lines should be adjusted before any more States should be admitted. Accordingly in 1839 Congress asked what steps had been taken to settle the boundaries "between Lake Huron and Lake Superior, and so northwardly, and westwardly along the frontier of the State of Michigan and the territories of Wisconsin and Iowa, to the Rocky Mountains."<sup>3</sup>

To the next Congress, President Van Buren said:

"To the intrinsic difficulties, questions of boundary lines, especially those described in regions unoccupied, and but partially known, is to be added in our country the embarrassment necessarily arising out of our constitution by which the general government is made the organ of negotiating and deciding upon the particular interests of the states on whose frontiers these lines are to be traced. To avoid another controversy in which a state government might rightfully claim to have her wishes consulted previously to the conclusion of conventional arrangements concerning her rights of jurisdiction or territory, I have thought necessary to call the attention of the government of Great Britain to another portion of our conterminous dominion, of which the division still remains to be adjusted. I refer to the line from the entrance of Lake Superior to the most northwest point of the Lake of the Woods."<sup>4</sup>

From this time on, the settlement of the northwest boundary was a subject of communication between the two countries.<sup>5</sup> In 1842, when the troubles regarding the northeast boundary, slave trade, and the surrender of criminals, forced Great Britain and the United States to make a new treaty, these long unsettled lines were established.

<sup>1</sup> "Niles Register," XLVIII, p. 95.

<sup>2</sup> Correspondence relating to the boundary between the British possessions and the United States of America, 1840. "Congressional Globe," 27th Cong., 3d Sess., p. 14.

<sup>3</sup> "House Journal," 25th Cong., 3d Sess., p. 396. "Niles Register," Vols. 55-6, p. 364.

<sup>4</sup> "Ex. Doc., No. 2," 26th Cong., 1st Sess., Vol. I, p. 4. "Niles Register," Vols. 57-8, p. 280.

<sup>5</sup> "Webster's Works," Vol. VI, p. 280. Correspondence relating to the boundary between the British possessions and the United States of America, pp. 89-90.

When Lord Ashburton and Mr. Webster came to discuss the affairs which were to be settled by the famous treaty of 1842 they decided to let the northwest boundary stand until more important matters were settled.<sup>1</sup> In due time, however, this region was attended to. Lord Ashburton proposed, with regard to the boundaries left unsettled by the commissioners under the sixth and seventh articles of the Treaty of Ghent, 1st, That Great Britain should yield St. George's Island to the United States<sup>2</sup>, on condition that certain channels in Lake St. Clair and the St. Lawrence should be free for the use of British subjects.<sup>3</sup>

2d. That the line should leave Lake Superior, "from a point about six miles south of Pigeon River, where the Grand Portage commences on the lake and run thence to the Lake of the Woods."<sup>4</sup> Mr. Webster, of course, accepted St. George's Island for the United States; but he yielded the right of free passage through Lake St. Clair and the St. Lawrence, as asked, only on condition that the Americans should receive the same privilege in passing Bois Blanc.<sup>5</sup> This proposal was accepted, and the line through St. Mary's river was determined.<sup>6</sup>

The second proposition of Lord Ashburton, just referred to, was not so satisfactory. Webster insisted that the line should leave Lake Superior, not at the Grand Portage, but at the mouth of the Pigeon river, six miles further north.<sup>7</sup> In 1842 the British and American Commissioners stood where those of 1822 had left the matter. But now the differences were adjusted without much difficulty as neither of the commissioners felt that the point itself was of much importance, provided that it was a fixed point.<sup>8</sup> A compromise, which the British had proposed in 1822, but which our commissioner refused to accept for lack of power, was now agreed upon.<sup>9</sup> The line leaves Lake Superior at the Pigeon River, but the portages are free and common to citizens of both countries.<sup>10</sup>

When this "Webster Ashburton Treaty" was discussed in the Senate, there were a few who felt that Webster should, to say the least, have little credit for this part of it. The President, in transmitting the Treaty to the Senate, had congratulated the country on securing St. George's Island and on the extension of the line by the Pigeon River route.<sup>11</sup> Benton, particularly, felt that these were not gains to the country, as you cannot gain what you already possess. The island, he said, had been held by the United States since 1783.<sup>12</sup> This, however, would have given no valid title to the island as the Ghent Treaty, in providing for an adjust-

<sup>1</sup> Webster's "Works," Vol. VI, p. 279. "Congressional Globe," 27th Cong., 3d Sess., p. 10.

<sup>2</sup> Webster's "Works," Vol. VI, p. 280.

<sup>3</sup> Webster's "Works," Vol. VI, pp. 281-2. "Congressional Globe," 27th Cong., 3d Sess., p. 10.

<sup>4</sup> *Ibid.*

<sup>5</sup> Webster's "Works," Vol. VI, p. 284. "Congressional Globe," 27th Cong., 3d Sess., p. 11.

<sup>6</sup> "Treaty" 1842, Article VII.

<sup>7</sup> Webster's "Works," Vol. VI, p. 286.

<sup>8</sup> *Ibid.*, pp. 280-289. "Congressional Globe," 27th Cong., 3d Sess., pp. 10-11.

<sup>9</sup> *Ante*, p. 33.

<sup>10</sup> "Treaty" 1842, Articles II, VII.

<sup>11</sup> Message of President Tyler, August 11, 1842. "Congressional Globe," 27th Cong., 3d Sess., p. 3.

<sup>12</sup> "Congressional Globe," 27th Cong., 3d Sess., p. 21; appendix, p. 4.

ment of the boundary line, stipulated that in the settlement possession should not be regarded as a title to territory.<sup>1</sup> It is true, as we have seen,<sup>2</sup> that Webster had little or no difficulty in securing St. George's Island because his predecessor had shown so clearly that by right of location and extent it belonged to the Americans.<sup>3</sup> But what most excited the wrath of Senator Benton was the statement of the President that the treaty secured to the United States, "four millions of acres, northward of the claim set up by the British Commissioner under the Treaty of Ghent."<sup>4</sup> Certainly Benton was right when he said this "celebrates an acquisition where nothing has been gained."<sup>5</sup> For the British had not held the country below the Grand Portage since 1783. Neither had they established any title to it in their three attempts to do so. Moreover Lord Ashburton did not assert a claim to the territory,<sup>6</sup> certainly it was no great gain to keep what had always been ours. But Benton went further and said that, even if the boundary line was to run into the Pigeon River, instead of directly to the Grand Portage, as Ashburton suggested, still he had gained all he asked as the Portage was to be free to the English as to the Americans.<sup>7</sup> This was doubtless a compromise, for if the original treaty had defined the line as running to the Grand Portage why should the English traders have left that station for fear of customs and duties, as they did in 1802?<sup>8</sup> Still the granting of the use of a portage within our borders is, in these days of railroads, of no consequence whatever; and even in 1842 was not commonly considered impolitic or unwise. The British and American world felt, as Representative Cushing did, that the boundary in the north was "settled in a manner honorable to the United States,"<sup>9</sup> and the people were too much absorbed in the other portions of the treaty to pay very much attention to this part.

Such is the story of the bounding of Michigan. Included first within the borders of New France, it passed into English hands, but only to be set aside for Indian occupation. Struggling against this it was admitted into the Province of Quebec but only to be torn from Canada at the close of the revolution. Though recognized as part of the United States since 1883, the British in 1815 would have had our government promise to yield to the Indians a large tract of country including all of the upper, and part of the lower peninsula of Michigan. Rescued from this fate, Michigan won a name and a place among the states of the Union before her boundary was fully established, or all her lands assured to her possession.

<sup>1</sup> "Treaty of Ghent," Article VIII.

<sup>2</sup> *Ante*, p. 35.

<sup>3</sup> *Ante*, pp. 30, 31.

<sup>4</sup> Message of the President, "Congressional Globe," 27th Cong., 3d Sess., p. 3.

<sup>5</sup> "Congressional Globe," 27th Cong., 3d Sess.; appendix, p. 2.

<sup>6</sup> *Ante*, p. 35.

<sup>7</sup> "Congressional Globe," 27th Cong., 3d Sess.; appendix, pp. 2-3.

<sup>8</sup> "Ex. Doc., No. 451," 25th Cong., 2d Sess., Vol. XI, pp. 105, 123, 129, 131. *Ante*, pp. 21-22. "Report Canadian Archivist," 1888, p. 67; 1890, pp. 50-57.

<sup>9</sup> "Congressional Globe," 27th Cong., 3d Sess.; appendix, p. 215. Hansard's "Debates," Vols. LXVII and LXVIII. "Niles Register," Vols. 63-64, p. 97.

One island which, according to the treaty of 1783, should have belonged to the United States and later would have fallen within the borders of Michigan is not there. The isles Royale and Philippeau, the Treaty of Peace expressly gave to the United States. Isle Royale belongs to Michigan and so should those other islands; where are they? Surveys fail to find any islands where Mitchell's map and the Treaty of Peace locate them.<sup>1</sup> The American Commissioner in 1822-27 tried to prove that these islands "are a cluster, or rather a succession of small islands (of which the one named on the map Pâté is the most considerable) extending along the lake coast from northeast to southwest, and situated between Isle Royale and the main shore,"<sup>2</sup> but he failed to prove his point, and we are forced to believe that in this matter the British Commissioner was right. Mr. Barclay said that the reasons for these islands being on Mitchell's map was, the "Deceptive appearance of certain lands, resembling islands in the direction assigned to the Isles Philippeau."<sup>3</sup>

These islands were, according to the tale of the Indians, the home of the Great Spirit. What fitter place could have been found for the home of the Manitou than on islands plainly seen to the east of Isle Royale, whether one gazed from north or south, yet islands which no canoe could ever reach? In the fabulous lands then, the Isles Philippeau lie and add to the romance, if not to the wealth of Michigan.

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<sup>1</sup> "Ex. Doc.," No. 451, 25th Cong., 2d Sess., Vol. XI, pp. 20, 72, 100.

<sup>2</sup> *Ibid.*, p. 20.

<sup>3</sup> "Ex. Doc.," No. 451, 25th Cong., 2d Sess., Vol. XI, pp. 72, 100.













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